Public Law 96-499
96th Congress

An Act

To provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981.

Dec. 5, 1980
[H.R. 7765]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Reconciliation Act of 1980.

TITLE I—SHORT TITLE AND DECLARATION OF PURPOSE

SHORT TITLE

SECTION 101. This Act may be cited as the "Omnibus Reconciliation Act of 1980".

PURPOSE

SEC. 102. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives and the Senate pursuant to directions contained in section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981 (H. Con. Res. 307, 96th Congress), and pursuant to the reconciliation requirements which were imposed by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974. 31 USC 1331.

TITLE II—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

Subtitle A—Savings Under the School Lunch and Child Nutrition Programs

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 201. (a) Notwithstanding section 4 of the National School Lunch Act, for the fiscal year ending September 30, 1981, the national average payment per lunch under such Act for such fiscal year, after being adjusted under section 11(a) of such Act, shall be reduced by 2½ cents for any school food authority under which less than 60 percent of the lunches served in the school lunch program were served free or at reduced price during the second preceding school year. The amount of State administrative expense funds to be made available to the States by the Secretary of Agriculture under section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 7 of the National School Lunch Act for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of

42 USC 1753 note.

42 USC 1759a.

42 USC 1776.

42 USC 1756.

"School food authority.".

the preceding sentence. For the purpose of this section, the term "school food authority" means the governing body that is responsible for the administration of one or more schools and has the legal authority to operate a school lunch or school breakfast program.

42 USC 1776.

(b) Section 7 of the Child Nutrition Act of 1966 is amended by—

(1) in subsection (e), striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the five succeeding fiscal years"; and

(2) in subsection (i), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

REDUCTION IN COMMODITY ASSISTANCE

42 USC 1755 note.

SEC. 202. (a) For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

42 USC 1755.

42 USC 1755.

(b) Section 6 of the National School Lunch Act is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.".

42 USC 1773.

42 USC 1762a.

(c) Section 14(a) of the National School Lunch Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984.".

INCOME ELIGIBILITY GUIDELINES

42 USC 1758 note.

SEC. 203. (a) During the fiscal year ending September 30, 1981, the income poverty guidelines for the purposes of section 9 of the National School Lunch Act shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.

42 USC 1758.

Household income computation.

(b) In computing household income under section 9(b) of the National School Lunch Act for the fiscal year ending September 30, 1981—

(1) in States other than Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 each month for each household, which shall be adjusted to the nearest $5 on July 1, 1980, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for items other than food for the period beginning September 1977 and ending March 1980;

(2) the monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for such States; and

(3) the monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for such States.

(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in

this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications.

(d) Section 17 of the Child Nutrition Act of 1966 is amended by— 42 USC 1786.

(1) in subsection (c)(2), striking out "for the fiscal years ending September 30, 1981, and September 30, 1982" and inserting in lieu thereof "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) in the first sentence of subsection (g), striking out "$950,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "such sums as may be necessary for the three subsequent fiscal years"; and

(3) in subsection (h)(2), striking out "1982" and inserting in lieu thereof "1984".

SPECIAL ASSISTANCE

SEC. 204. (a) Section 11(a) of the National School Lunch Act is amended by striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater". 42 USC 1759a.

(b) During the fiscal year ending September 30, 1981— 42 USC 1759a note.

(1) no semiannual adjustment required under the sixth sentence of section 11(a) of the National School Lunch Act shall be made on January 1 of such fiscal year; and 42 USC 1759a.

(2) the adjustment required under the second proviso in the sixth sentence of section 11(a) of the National School Lunch Act which is to be made on July 1 of such fiscal year shall reflect the changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for lunches served during the preceding 12-month period.

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 205. Section 12(d) of the National School Lunch Act is amended by inserting in paragraph (6) ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded". 42 USC 1760.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 206. Section 13 of the National School Lunch Act is amended by— 42 USC 1761.

(1) amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the

service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."; and

(2) in subsection (p), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

AMENDMENT TO THE CHILD CARE FOOD PROGRAM

42 USC 1766.

SEC. 207. (a) Section 17(a) of the National School Lunch Act is amended in the second sentence by inserting before the period at the end thereof the following: "; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act".

42 USC 1397.

42 USC 1766 note.

(b) The amendment made by subsection (a) of this section shall apply with respect to all fiscal years beginning on or after October 1, 1980.

ADJUSTMENTS

42 USC 1766 note.

SEC. 208. (a) During the fiscal year ending September 30, 1981, in determining the national average payment rate for supplements served in institutions (other than family or group day care home sponsoring organizations) participating in the child care food program under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act—

(1) no adjustment under such paragraphs shall be made on January 1 of such fiscal year; and

(2) the adjustment under such paragraphs required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

42 USC 1766.

(b) Section 17(c) of the National School lunch Act is amended by inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(c) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

SPECIAL MILK PROGRAM

42 USC 1772.

SEC. 209. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

PAYMENTS FOR FREE BREAKFASTS

42 USC 1773 note.

SEC. 210. Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966, in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 211. Section 5 of the Child Nutrition Act of 1966 is amended by— 42 USC 1774.

(1) amending subsection (a) to read as follows:

"(a) There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for each succeeding fiscal year, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act."; and 42 USC 1751 note.

Appropriation authorization.

(2) in subsection (e), striking out "fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980" and inserting in lieu thereof "fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1984";

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 212. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded". 42 USC 1784.

NUTRITION EDUCATION AND TRAINING

SEC. 213. Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by— 42 USC 1788.

(1) striking out "For the fiscal year beginning October 1, 1979" and inserting in lieu thereof "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) inserting after the first sentence the following: "For the fiscal year beginning October 1, 1980, and subsequent fiscal years, there is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000."; and

(3) striking out "preceding sentence" and inserting in lieu thereof "second preceding sentence".

TITLE III—STUDENT LOAN PROGRAMS

SAVINGS ACHIEVED

SEC. 301. For other provisions of law which reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(2) and 3(a)(18) of H. Con. Res. 307 (96th Congress), see the Education Amendments of 1980 (Public Law 96-374).

Ante, p. 1367.

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

26 USC 6103.

SEC. 302. (a) Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

"(i) made under part B or E of title IV of the Higher Education Act of 1965, or

20 USC 1071, 1088.

"(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

22 USC 2602.

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

"(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

20 USC 1071.

"(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act,

20 USC 1088.

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.".

26 USC 7213.

(b) The first sentence of section 7213(a)(2) of such Code (relating to unauthorized disclosure of information by State and other employees) is amended to read as follows: "It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l) (6) or (7), or (m)(4) of section 6103.".

26 USC 6103.

Effective date.
26 USC 6103 note.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of the enactment of this Act.

TITLE IV—CIVIL SERVICE, POSTAL SERVICE, AND RELATED PROGRAMS

Subtitle A—Savings Under the Civil Service Program

ELIMINATION OF RETROACTIVE ANNUITY ADJUSTMENT; PRORATION OF INITIAL ADJUSTMENT

SEC. 401. (a) Section 8340(c) of title 5, United States Code, relating to cost-of-living adjustments, is amended—

(1) by striking out paragraph (1) thereof; and

(2) by inserting in lieu thereof the following new paragraph:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) 1/6 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month).".

(b)(1) The amendment made by subsection (a)(1) shall apply with respect to annuities commencing after the 45th day after the date of the enactment of this Act. 5 USC 8340 note.

(2) The amendment made by subsection (a)(2) shall take effect with respect to any annuity increase which takes effect after the date of the enactment of this Act.

ELIMINATION OF CREDIT FOR HOLIDAYS IN CALCULATING LUMP-SUM LEAVE PAYMENTS

SEC. 402. (a) Section 5551(a) of title 5, United States Code, relating to lump-sum payment at separation for accumulated leave, is amended by adding at the end thereof the following new sentence: "The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to employees separating from the service on or after such date. Effective date. 5 USC 5551 note.

DISABILITY RETIREMENT ELIGIBILITY

SEC. 403. (a) Section 8337(a) of title 5, United States Code, relating to disability retirement, is amended to read as follows:

"(a) An employee who completes 5 years of civilian service and has become disabled shall be retired on the employee's own application or on application by the employee's agency. Any employee shall be considered to be disabled only if the employee if found by the Office of Personnel Management to be unable, because of disease or injury, to render useful and efficient service in the employee's position and is not qualified for reassignment, under procedures prescribed by the Office, to a vacant position which is in the agency at the same grade or level and in which the employee would be able to render useful and efficient service. For the purpose of the preceding sentence, an employee of the United States Postal Service shall be considered not qualified for a reassignment described in that sentence if the reas-

signment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement covering the employee. A Member who completes 5 years of Member service and is found by the Office to be disabled for useful and efficient service as a Member because of disease or injury shall be retired on the Member's own application. An annuity authorized by this section is computed under section 8339(g) of this title, unless the employee or Member is eligible for a higher annuity computed under section 8339(a)-(e) or (n).".

Infra.

(b) Section 8331 of title 5, United States Code, is amended by striking out paragraph (6).

Effective date.
5 USC 8331 note.

(c) The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

MINIMUM DISABILITY RETIREMENT ANNUITY

SEC. 404. (a) Section 8339(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, if an employee or Member retiring under section 8337 of this title is receiving retired pay or retainer pay for military service (except that specified in section 8332(c) (1) or (2) of this title) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that employee or Member shall be computed under subsection (a), (b), or (c) of this section, as appropriate, excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of this title, or the Veterans' Administration pension or compensation in lieu of such retired or retainer pay, is less than the smaller of the annuity otherwise payable under paragraph (1) or (2) of this subsection, an amount equal to the difference shall be added to the annuity payable under subsection (a), (b), or (c) of this section, as appropriate.".

5 USC 8337.

5 USC 8332.

5 USC 5532.

(b) Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Notwithstanding any other provision of law, for the purpose of ensuring the accuracy of information used in the administration of this chapter, at the request of the Director of the Office of Personnel Management—

"(1) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under title 10; and

10 USC 101.

"(2) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under title 38.

38 USC 101.

Information, safeguards.

The Director shall request only such information as the Director determines is necessary. The Director, in consultation with the officials from whom information is requested, shall establish, by regulation and otherwise, such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized.".

Effective date.
5 USC 8339 note.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

EXEMPTION OF LIFE INSURANCE PREMIUMS FROM STATE TAXATION

SEC. 405. (a) Section 8714 of title 5, United States Code, relating to Employees' Life Insurance Fund, is amended by adding at the end thereof the following new subsection:

"(c)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under an insurance policy purchased under this chapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to premiums paid on or after such date.

Effective date.
5 USC 8714 note.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 411. Section 2401(b)(1)(C) of title 39, United States Code, is amended by striking out "an amount equal to 8 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$486,000,000".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 412. During the period from the date of enactment of this Act until October 1, 1981, the Postal Service shall take no action to reduce or to plan to reduce during that period of time the number of days each week for regular mail delivery.

AUTHORIZATION FOR REVENUE FOREGONE APPROPRIATIONS

SEC. 413. (a) Notwithstanding the provisions of sections 2401(c) and 3626 of title 39, United States Code, the authorization for appropriations for fiscal year 1981 for revenue foregone for mail matter described in former sections 4452 (b) and (c) of title 39, United States Code, shall be $50,000,000 less than would be authorized if this section were not enacted.

(b) The reduction in authorization made by subsection (a) of this section may be deemed a failure of appropriation for the purposes of section 3627 of title 39, United States Code.

RECONCILIATION APPROPRIATIONS

SEC. 414. (a) Section 2401(c) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.".

(b) The request for a reconciliation appropriation described in subsection (a) of this section which was submitted by the Postal Service for fiscal year 1981 shall be resubmitted for fiscal year 1982.

EFFECTIVE DATE

59 USC 2401 note.

SEC. 415. The provisions of this subtitle, including the amendments made by this subtitle, shall take effect on the date of the enactment of this Act.

Subtitle C—Savings Under the Federal Employees' Compensation Act

AMENDMENTS

SEC. 421. (a) Subsection (a) of section 8146a of title 5, United States Code, is amended to read as follows:

"(a) Compensation payable on account of disability or death which occurred more than one year before March 1 of each year shall be annually increased on that date by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.".

(b) Section 8101 of title 5, United States Code, is amended by striking out paragraph (19), and by redesignating paragraphs (20) and (21) as paragraphs (19) and (20), respectively.

EFFECTIVE DATE

5 USC 8101 note.

SEC. 422. The amendments made by section 421 shall take effect on the date of the enactment of this Act with respect to any adjustments which are to be made on or after that date; except that the period specified in such section as extending from December to December shall, with respect to the adjustment to be made on March 1, 1981, extend instead from the last month in which the price index resulted in an adjustment prior to enactment to December of 1980.

TITLE V—HIGHWAY, RAIL, AND RELATED PROGRAMS

Subtitle A—Highway Programs

SEC. 501. Notwithstanding any other provision of law, the total of all obligations for "State and Community Highway Safety" (23 U.S.C. 402) for the fiscal year ending September 30, 1981, shall not exceed $150,405,000.

Subtitle B—Other Programs

15 USC 1381 note.
15 USC 1901 note.
15 USC 1409.

Appropriation authorization.

SEC. 511. If the Senate and the House of Representatives approve a conference report on the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, which includes an authorization for fiscal year 1981 pursuant to section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 that exceeds $53,800,000, then the Secretary of the Senate is directed to include the following provision in the enrolled copy of such bill: "Of the funds authorized to be appropriated pursuant to section 121 of the National Traffic Motor Vehicle Safety Act of 1966

(15 U.S.C. 1409) not more than $53,800,000 is authorized to be appropriated in fiscal year 1981.".

SEC. 512. (a) For provisions of law which reduce spending for fiscal year 1981 under the railroad rehabilitation and improvement financing program established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Staggers Rail Act of 1980 (Public Law 96-448). 45 USC 821. *Ante*, p. 1895.

(b) For provisions of law which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Passenger Railroad Rebuilding Act of 1980 (Public Law 96-254). *Ante*, p. 399.

TITLE VI—AIRPORT AND AIRWAY IMPROVEMENT ACT

SEC. 601. Notwithstanding any other provision of law, the total amount of grants which the Secretary is authorized to make from the Airport and Airway Trust Fund for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979, as amended, for the fiscal year ending September 30, 1981, shall not exceed $725,000,000.

TITLE VII—VETERANS' PROGRAMS

SEC. 701. For provisions of law which reduce spending for fiscal year 1981 in veterans' programs in satisfaction of the reconciliation requirements imposed by sections 3(a)(7) and 3(a)(20) of H. Con. Res. 307 (96th Congress), see section 401 of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96-330), section 504 of the Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Public Law 96-385), and sections 201, 202, 211, 212, and 802(b), and title VI, of the Veterans' Rehabilitation and Education Amendments of 1980 (Public Law 96-466). *Ante*, p. 1051. *Ante*, p. 1534. *Ante*, pp. 2187-2190, 2217, 2208.

TITLE VIII—SMALL BUSINESS PROGRAMS

SEC. 801. For provisions of law which reduce spending for fiscal 1981 in small business programs in satisfaction of the reconciliation requirements imposed by sections 3(a)(6) and 3(a)(19) of H. Con. Res. 307 (96th Congress), see Public Law 96-302 (the Small Business Development Act of 1980). *Ante*, p. 833.

TITLE IX—MEDICARE AND MEDICAID RELATED PROVISIONS

Medicare and Medicaid Amendments of 1980.

SHORT TITLE; TABLE OF CONTENTS OF TITLE

SEC. 900. This title may be cited as the "Medicare and Medicaid Amendments of 1980". 42 USC 1305 note.

TABLE OF CONTENTS OF TITLE

PART A—PROVISIONS RELATING TO MEDICARE AND MEDICAID

Subpart I—Provider Reimbursement Changes

NONPROFIT HOSPITAL PHILANTHROPY

SEC. 901. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"NONPROFIT HOSPITAL PHILANTHROPY

"SEC. 1134. For purposes of determining, under titles V, XVIII, and XIX of this Act, the reasonable costs of services provided by nonprofit hospitals, the following items shall not be deducted from the operating costs of such hospitals: 42 USC 1320b-4. 42 USC 701, 1395, 1396.

"(1) A grant, gift, or endowment, or income therefrom, which is to or for such a hospital and which has not been designated by the donor for paying any specific operating costs.

"(2) A grant or similar payment which is to such a hospital, which was made by a governmental entity, and which is not available under the terms of the grant or payment for use as operating funds.

"(3) Those types of donor designated grants and gifts (including grants and similar payments which are made by a governmental entity), and income therefrom, which the Secretary determines, in the best interests of needed health care, should be encouraged.

"(4) The proceeds from the scale or mortgage of any real estate or other capital asset of such a hospital, which real estate or asset the hospital acquired through gift or grant, if such proceeds are not available for use as operating funds under the terms of the gift or grant.

Paragraph (4) shall not apply to the recovery of the appropriate share of depreciation when gains or losses are realized from the disposal of depreciable assets.".

(b) The amendment made by subsection (a) shall apply to grants, gifts, and endowments, and income therefrom, made or established after the date of the enactment of this Act. 42 USC 1320b-4 note.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

42 USC 1395x.

SEC. 902. (a)(1) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(G)(i) In any case in which a hospital provides inpatient services to an individual that would constitute post-hospital extended care services if provided by a skilled nursing facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but post-hospital extended care services for the individual are medically necessary and such extended care services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for such services provided to the individual shall continue to be made under this title at the payment rate described in clause (ii) during the period in which—

42 USC 1301.

"(I) such post-hospital extended care services for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(II) inpatient hospital services for the individual are not medically necessary, and

"(III) the individual is entitled to have payment made for post-hospital extended care services under this title,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the basis of the reasonable cost of inpatient hospital services.

"(ii)(I) Except as provided in subclause (II), the payment rate referred to in clause (i) is a rate equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in skilled nursing facilities under the State plan approved under title XIX for the State in which such hospital is located, or, if the State in which the hospital is located does not have a State plan approved under title XIX, the estimated adjusted State-wide average allowable costs per patient-day for extended care services under this title in that State.

42 USC 1396.

"(II) If a hospital has a unit which is a skilled nursing facility, the payment rate referred to in clause (i) for the hospital is a rate equal to the lesser of the rate described in subclause (I) or the allowable costs in effect under this title for extended care services provided to patients of such unit.

"(iii) Any day on which an individual receives inpatient services for which payment is made under this subparagraph shall, for purposes of this Act (other than this subparagraph), be deemed to be a day on which the individual received inpatient hospital services.

Occupancy rate.

"(iv) For the purpose of determining the occupancy rate with respect to hospitals under clause (i)—

"(I) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(II) beginning two years after the date this subparagraph is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subparagraph or section 1902(h).".

42 USC 1396a.

(2) For amendment to section 1158(a) of the Social Security Act relating to these provisions, see section 931(h) of this title. *Post*, p. 2633.

(3) Section 1158(d) of such Act is amended by adding at the end the following new sentence: "In the case of disapproval of inpatient hospital services where payment for inpatient services is continued under section 1861(v)(1)(G) or section 1902(h), the previous sentence shall not apply with respect to such disapproval.". 42 USC 1320c-7. *Ante*, p. 2612, *infra*..

(b)(1) Section 1902(a)(13)(D) of such Act is amended— 42 USC 1396a.

(A) by inserting "(i)" after "(D)",

(B) by striking out the semicolon and inserting in lieu thereof a comma, and

(C) by inserting at the end thereof the following new clause: "(ii) for payment of the reasonable cost of inappropriate inpatient services (described in subsection (h)(1)) for which payment is provided only because of subsection (h) at the rate of payment for such services provided for under such subsection, and". *Infra.*

(2) Section 1902 of such Act is further amended by adding at the end the following new subsection: 42 USC 1396a.

"(h)(1) In any case in which a hospital provides inpatient services to an individual that would constitute skilled nursing facility services if provided by a skilled nursing facility or that would constitute intermediate care facility services if provided by an intermediate care facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but skilled nursing facility services or intermediate care facility services, respectively, for the individual are medically necessary and such type of facility services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for inpatient hospital services shall continue to be made under the State plan approved under this title at the payment rate described in paragraph (2) for such type of services during the period in which— 42 USC 1301.

"(A) such skilled nursing facility services or intermediate care facility services (as the case may be) for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(B) inpatient hospital services for the individual are not medically necessary, and

"(C) the individual is entitled to receive medical assistance with respect to such facility services under the State plan,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the same basis as otherwise used under the State's plan for payments for providing inpatient hospital services.

"(2)(A) Except as provided in subparagraph (B), the payment rate referred to in paragraph (1), in the case of skilled nursing facility services or intermediate care facility services, is the estimated adjusted State-wide average rate per patient-day paid for such respective type of services provided under the State plan.

"(B) If a hospital has a unit which is a skilled nursing facility or intermediate care facility, the payment rate referred to in paragraph (1), in the case of inpatient services which constitute skilled nursing facility services or intermediate care facility services, is a rate equal to the lesser of the rate described in subparagraph (A) or the

allowable costs in effect under the State plan for such type of inpatient services provided to patients of such unit.

"(3) Any day on which an individual receives inpatient services for which payment is made under this subsection shall, for purposes of this Act (other than this subsection), be deemed to be a day on which the individual received inpatient hospital services.

"(4) For the purpose of determining the occupancy rate with respect to hospitals under paragraph (2)—

"(A) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(B) beginning two years after the date this subsection is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subsection or section 1861(v)(1)(G).".

Effective date. 42 USC 1320c-7 note.

(c) The amendments made by this section shall become effective on the date of which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

CONTINUED USE OF DEMONSTRATION PROJECT REIMBURSEMENT SYSTEMS

42 USC 1395f.

SEC. 903. (a) Section 1814(b) of the Social Security Act is amended—

(1) by inserting "except as provided in paragraph (3)," in paragraph (1) before "the lesser",

(2) by striking out "or" at the end of paragraph (1),

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new paragraph:

"(3) if some or all of the hospitals in a State have been reimbursed for services (for which payment may be made under this part) pursuant to a reimbursement system approved as a demonstration project under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972, if the rate of increase in such hospitals in their costs per hospital inpatient admission of individuals entitled to benefits under this part over the duration of such project was equal to or less than such rate of increase for admissions of such individuals with respect to all hospitals in the United States during such period, and if either the State has legislative authority to operate such system and the State elects to have reimbursement to such hospitals made in accordance with this paragraph or the system is operated through a voluntary agreement of hospitals and such hospitals elect to have reimbursement to those hospitals made in accordance with this paragraph, then the Secretary may provide for continuation of reimbursement to such hospitals under such system until the Secretary determines that—

42 USC 1395b-1, 1395*ll*.
42 USC 1395b-1 and note, 1395*ll*.

"(A) a third-party payor reimburses such a hospital on a basis other than under such system, or

"(B) the rate of increase for the previous three-year period in such hospitals in costs per hospital inpatient admission of individuals entitled to benefits under this part is greater than such rate of increase for admissions of such individuals

with respect to all hospitals in the United States for such period.

In the case of any State which has had such a demonstration project reimbursement system in continuous operation since July 1, 1977, the Secretary shall provide under paragraph (3) for continuation of reimbursement to hospitals in the State under such system until the Secretary determines that either of the conditions described in subparagraph (A) or (B) of such paragraph has occurred.".

(b) Section 1902(a)(13)(D)(i) of such Act, as amended by section 902(b)(1) of this title, is amended by inserting after "title XVIII" the following: ", except that in the case of hospitals reimbursed for services under part A of title XVIII in accordance with section 1814(b)(3), the plan must provide for payment of inpatient hospital services provided in such hospitals under the plan in accordance with the reimbursement system used under such section". 42 USC 1396a. 42 USC 1395. *Ante*, p. 2614.

(c) Notwithstanding any other provision of law, the Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may not provide for more than a total of six Statewide medicare hospital reimbursement demonstration projects under the authority of section 402 of the Social Security Amendments of 1967 or of section 222 of the Social Security Amendments of 1972, including any such projects provided for before the date of the enactment of this Act. 42 USC 1395b–1 note. 42 USC 1395b–1 and note, 1395*ll*.

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWING-BEDS")

SEC. 904. (a)(1) Title XVIII of the Social Security Act is amended by adding after section 1882 the following new section:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"SEC. 1883. (a)(1) Any hospital (other than a hospital which has in effect a waiver under subparagraph (A) of the last sentence of section 1861(e)) which has an agreement under section 1866 may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute extended care services. 42 USC 1395 tt. *Post*, p. 2645, 42 USC 1395cc.

"(2)(A) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

"(B)(i) The reasonable cost of the services consists of the reasonable cost of routine services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

"(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of—

"(I) the number of patient-days during the year for which the services were furnished, and

"(II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the previous calendar year under the State plan (of the State in which the hospital is located) under title XIX to skilled nursing facilities located in the State and which meet the requirements specified in section 1902(a)(28), or, in the case of a hospital located in a State which does not have such a State plan, the average rate per patient-day 42 USC 1396. 42 USC 1396a.

paid for routine services during the previous calendar year under this title to skilled nursing facilities in such State.

"(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(b) The Secretary may not enter into an agreement under this section with any hospital unless—

"(1) except as provided under subsection (g), the hospital is located in a rural area and has less than 50 beds, and

"(2) the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located.

42 USC 300m.

"(c) An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866 and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or during which there is in effect for the hospital a waiver under subparagraph (A) of the last sentence of section 1861(e). A hospital with respect to which an agreement under this section has been terminated shall not be eligible to enter into a new agreement until a two-year period has elapsed from the termination date.

42 USC 1395cc.

Post, p. 2645.

"(d) Any agreement with a hospital under this section shall provide that payment for services will be made only for services for which payment would be made as post-hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866; and any individual who is furnished services, for which payment may be made under an agreement under this section, shall, for purposes of this title (other than this section), be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(e) During a period for which a hospital has in effect an agreement under this section, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services, the total reimbursement due for routine services from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

42 USC 1395, 1396.

"(f) A hospital which enters into an agreement with the Secretary under this section shall be required to meet those conditions applicable to skilled nursing facilities relating to discharge planning and the social services function (and staffing requirements to satisfy it) which are promulgated by the Secretary under section 1861(j)(15). Services furnished by such a hospital which would otherwise constitute post-hospital extended care services if furnished by a skilled nursing facility shall be subject to the same requirements applicable to such services when furnished by a skilled nursing facility except for those

42 USC 1395x.

requirements the Secretary determines are inappropriate in the case of these services being furnished by a hospital under this section.

"(g) The Secretary may enter into an agreement under this section on a demonstration basis with any hospital which does not meet the requirement of subsection (b)(1), if the hospital otherwise meets the requirements of this section.".

(b) Title XIX of such Act is amended by adding after section 1912 the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for skilled nursing facility services and intermediate care facility services furnished by a hospital which has in effect an agreement under section 1883. 42 USC 1396*l*.

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to skilled nursing and intermediate care facilities, respectively, located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has an agreement under section 1883, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.". *Ante*, p. 2615. 42 USC 1395, 1396.

(c) Within three years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report evaluating the programs established by the amendments made by this section and shall include in such report an analysis of— Report to Congress. 42 USC 1395tt note.

(1) the extent and effect of the agreements under such programs on availability and effective and economical provision of long-term care services,

(2) whether such programs should be continued,

(3) the results of any demonstration projects conducted under such programs, and

(4) whether eligibility to participate in such programs should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds.

(d) The amendments made by this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted. 42 USC 1395tt note.

WITHHOLDING OF FEDERAL SHARE OF PAYMENTS TO MEDICAID PROVIDERS TO RECOVER MEDICARE OVERPAYMENTS

42 USC 1396a. *Post*, p. 2650. *Infra.*

SEC. 905. (a) Subparagraphs (D)(i) and (E) of section 1902(a)(13) of the Social Security Act are each amended by inserting "(except where the State agency is subject to an order under section 1914)" after "payment".

42 USC 1396b.

(b) Section 1903(a)(1) of such Act is amended by striking out "subject to subsections (g) and (h)" and inserting in lieu thereof "subject to subsections (g), (h), and (j)".

(c)(1) Section 1903(j) of such Act is amended to read a follows:

"(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1914.".

Infra.

(2) Section 1903(n) of such Act is amended by striking out "or is subject to a suspension of payment order issued under subsection (j)".

(d) Title XIX of such Act is amended by adding after section 1913 (added by section 904(b) of this title) the following new section:

"WITHHOLDING OF FEDERAL SHARE OF PAYMENTS FOR CERTAIN MEDICARE PROVIDERS

42 USC 1396m.

"SEC. 1914. (a) The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

42 USC 1395cc. 42 USC 1395.

"(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1866; and (B)(i) from which the Secretary has been unable to recover overpayments made under title XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII; and

42 USC 1395u.

"(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under title XVIII, or submitted claims for payment under title XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under title XVIII.

"(b) The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this title for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under title XVIII, and may require the State to reduce its payment to such institution or person by such amount.

Notice.

"(c) The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

Implementation procedures.

"(d) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine

the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under title XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XVIII and to which the institution or person would otherwise be entitled under this title. 42 USC 1395.

"(e) The Secretary shall restore to the trust funds established under sections 1817 and 1841, as appropriate, amounts recovered under this section as setoffs against overpayments under title XVIII. 42 USC 1395i, 1395t.

"(f) Notwithstanding any other provision of this title, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this title which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).".

Subpart II—Other Administrative Provisions

QUALITY ASSURANCE PROGRAMS FOR CLINICAL LABORATORIES

SEC. 911. Section 1123(a) of the Social Security Act is amended by striking out "1977" and inserting in lieu thereof "1981". 42 USC 1320a-2.

REQUIREMENTS CONCERNING REPORTING OF FINANCIAL INTEREST

SEC. 912. (a) Section 1124(a)(3)(A)(ii) of the Social Security Act is amended to read as follows: 42 USC 1320a-3.

"(ii) is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds $25,000 or 5 per centum of the total property and assets of the entity; or".

(b) Section 1902(a)(35) of such Act is amended to read as follows: 42 USC 1396a.

"(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;". 42 USC 1320a-3.

EXCLUSION OF HEALTH CARE PROFESSIONALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 913. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1127 the following new section:

"EXCLUSION OF CERTAIN INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

"SEC. 1128. (a) Whenever the Secretary determines that a physician or other individual has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such individual's participation in the delivery of medical care or services under title XVIII, XIX, or XX, the Secretary— 42 USC 1320a-7.

"(1) shall bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such individual otherwise eligible to participate in such program; 42 USC 1395, 1396, 1397.

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX or title XX, of the fact and circumstances of such determination, and (except as provided in subpar- Notice.

agraph (B)) require each such agency to bar such individual from participation in such plan for such period as he shall specify, which in the case of an individual specified in paragraph (1) shall be the period established pursuant to paragraph (1);

Waiver.

"(B) may waive the requirement under subparagraph (A) to bar an individual from participation in a State plan under title XIX or title XX, where he receives and approves a request for such a waiver with respect to that individual from the State agency administering or supervising the administration of such plan; and

42 USC 1396, 1397.

Notice.

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such individual of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.

"(b) A determination made by the Secretary under this section shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, post-hospital extended care services, and home health services furnished under title XVIII, such determination shall be effective in the manner provided in paragraphs (3) and (4) of section 1866(b) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

42 USC 1395.

42 USC 1395cc.

Notice and hearing.

"(c) Any person who is the subject of an adverse determination made by the Secretary under subsection (a) shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

42 USC 405.

42 USC 1395y.

(b) Section 1862(e) of such Act is amended to read as follows:

"(e) No payment may be made under this title with respect to any item or service furnished by a physician or other individual during the period when he is barred pursuant to section 1128 from participation in the program under this title.".

Ante, p. 2619.

42 USC 1396a.

(c) Section 1902(a)(39) of such Act is amended to read as follows:

"(39) provide that the State agency shall bar any specified individual from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual during such period;".

Repeal.
42 USC 1396a.
42 USC 1397b.

(d) Section 1902(g) of such Act is repealed.

(e) Section 2003(d)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (I),

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) provides that the State will bar any specified individual from participation in the program for the period specified by the Secretary when required by him to do so pursuant to section 1128, and provides that no payment may be made under the program with respect to any item or service furnished by such individual during such period.". *Ante*, p. 2619.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 914. (a) Title XI of the Social Security Act is amended by inserting after section 1128 (added by section 913(a) of this title the following new section:

"COORDINATED AUDITS

"SEC. 1129. (a) If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall specify by regulation such methods as he finds feasible and equitable for the apportionment of the cost of coordinated audits between the program established under title V or XIX and the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be in excess of the amount that would have been apportioned to the State under the title (for the expenses of the Sate incurred in the common audit) if it had participated in the common audit. 42 USC 1320a-8. 42 USC 701, 1396. 42 USC 1395.

"(b)(1) In the case of entities which have audits coordinated under subsection (a), the Secretary shall establish one or more projects to demonstrate the feasibility of creating a single coordinated appeal hearing to adjudicate those administrative cost items which are determined under such a coordinated audit and which such entities dispute and appeal. Demonstration projects.

"(2) In the case of a demonstration project under this subsection, the Secretary may waive such requirements of title V, XVIII, or XIX as would prevent carrying out the project or would require duplicative activity or otherwise create unnecessary administrative burdens in carrying out the project. Waiver.

"(3) The Secretary shall report to Congress not later than December 31, 1982, with respect to demonstration projects conducted under this subsection, including the reaction of the entities involved and estimates of any savings effected through reduction of duplication of appeal hearings, and shall include in such report recommendations for such legislation as the Secretary deems appropriate to insure the maximum feasible coordination of such appeal hearings. Report to Congress.

"(4) The Secretary shall also provide for the review of the feasibility of establishing a single coordinated process for the collection of overpayments established in a coordinated audit under subsection (a). The Secretary shall report to Congress not later than December 31, 1981, on such review and on such recommendations for changes in legislation as the Secretary deems appropriate.". Review, report to Congress.

(b)(1) Section 1902(a) of such Act is amended— 42 USC 1396a.

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

42 USC 1395.

Ante, p. 2621.

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

42 USC 1396a note.

42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

42 USC 705.

(c)(1) Section 505(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

42 USC 1395.

42 USC 705 note.

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

42 USC 701.

Report to Congress.

(d) The Secretary shall report to the Congress, not later than December 31, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act, and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he

42 USC 1320a-8 note.

42 USC 701, 1395, 1396.

deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

LIFE SAFETY CODE REQUIREMENTS

SEC. 915. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "the Life Safety Code of the National Fire Protection Association (23d edition, 1973)" and inserting in lieu thereof "such edition (as is specified by the Secretary in regulations) of the Life Safety Code of the National Fire Protection Association". 42 USC 1395x.

(b) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day before the date of the enactment of this Act shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967, or 23d edition, 1973), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII or XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section. 42 USC 1395x note. 42 USC 1395, 1396.

ALTERNATIVE TO DECERTIFICATION OF LONG-TERM CARE FACILITIES OUT OF COMPLIANCE WITH CONDITIONS OF PARTICIPATION; LOOK BEHIND AUTHORITY

SEC. 916. (a) Section 1866 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1395cc.

"(f)(1) Where the Secretary determines that a skilled nursing facility which has filed an agreement pursuant to subsection (a)(1) or which has been certified for participation in a plan approved under title XIX no longer substantially meets the provisions of section 1861(j), and further determines that the facility's deficiencies— 42 USC 1396. 42 USC 1395x.

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall provide for the termination of the agreement or of the certification of the facility and shall provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may, in lieu of terminating the agreement or certification of the facility, provide

that no payment shall be made under this title (and order a State agency established or designated pursuant to section 1902(a)(5) of this Act to administer or supervise the administration of the State plan under title XIX of this Act to deny payment under such title XIX) with respect to any individual admitted to such facility after a date specified by him. 42 USC 1396a.

"(2) The Secretary shall not make such a decision with respect to a facility until such facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing. Notice and hearing.

"(3) The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j), or (B) in the case described in Notice.

paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of section 1861(j) on the date specified in such clause, the Secretary shall terminate such facility's agreement or provide for termination of such facility's certification, notwithstanding the provisions of paragraph (2) of subsection (b), effective with the first day of the first month following the month specified in such clause.".

42 USC 1395x.

42 USC 1396a.

(b)(1)(A) Section 1902 of such Act is amended by adding after subsection (h) (added by section 902(b)(2) of this title) the following new subsection:

"(i)(1) In addition to any other authority under State law, where a State determines that a skilled nursing facility or intermediate care facility which is certified for participation under its plan no longer substantially meets the provisions of section 1861(j) or section 1905(c), respectively, and further determines that the facility's deficiencies—

42 USC 1396d.

"(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide

that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

Notice and hearing.

"(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j) or section 1905(c) (as the case may be), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j) or section 1905(c) (as the case may be), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.".

(B) Such section is further amended by inserting before the semicolon at the end of subsection (a)(33)(B) the following: ", except that, if the Secretary has cause to question the adequacy of such determinations, the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation".

42 USC 1396i.

(2) Section 1910 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds on the basis of a

determination made by him as provided in section 1902(a)(33)(B) that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the skilled nursing facility or intermediate care facility that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur. 42 USC 1396a. 42 USC 1396d. 42 USC 1395cc. 42 USC 1395.

"(2) Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.". Hearing and judicial review. 42 USC 405.

CRIMINAL STANDARDS FOR CERTAIN MEDICARE- AND MEDICAID-RELATED CRIMES

SEC. 917. Paragraphs (1) and (2) of section 1877(b) of the Social Security Act and of section 1909(b) of such Act are each amended by inserting "knowingly and willfully" after "Whoever". 42 USC 1395nn, 1396h.

REIMBURSEMENT OF CLINICAL LABORATORIES

SEC. 918. (a)(1) Section 1842 of the Social Security Act is amended by inserting at the end the following new subsection: 42 USC 1395u.

"(h) If a physician's bill or request for payment for a physician's services includes a charge to a patient for a laboratory test for which payment may be made under this part, the amount payable with respect to the test shall be determined as follows:

"(1) If the bill or request for payment indicates that the physician who submitted the bill or for whose services the request for payment was made personally performed or supervised the performance of the test or that another physician with whom the physician shares his practice personally performed or supervised the test, the payment shall be the reasonable charge for the test (less the applicable deductible and coinsurance amounts).

"(2) If the bill or request for payment indicates that the test was performed by a laboratory, identifies the laboratory, and indicates the amount the laboratory charged the physician who submitted the bill or for whose services the request for payment was made, payment for the test shall be the lower of—

"(A) the laboratory's reasonable charge to individuals enrolled under this part for the test, or

"(B) the amount the laboratory charged the physician for the test,

plus a nominal fee (where the physician bills for such a service) to cover the physician's costs in collecting and handling the sample on which the test was performed (less the applicable deductible and coinsurance amounts).

"(3) If the bill or request for payment (A) does not indicate who performed the test, or (B) indicates that the test was performed by a laboratory but does not identify the laboratory or include the amount charged by the laboratory, payment shall be the lowest charged at which the carrier estimates the test could have been secured by a physician from a laboratory serving the locality (less the applicable deductible and coinsurance amounts).".

Publication in Federal Register. 42 USC 1395u note.

(2) The amendment made by paragraph (1) shall apply to bills submitted and requests for payment made on or after such date (not later than April 1, 1981) as the Secretary of Health and Human Services prescribes by a notice published in the Federal Register.

Report to Congress. 42 USC 1395u note.

(3) Not later than 24 months after the effective date specified in paragraph (2), the Secretary shall report to the Congress—

(A) the proportion of bills and requests for payment submitted (during the 18-month period beginning on such effective date) under title XVIII of the Social Security Act for laboratory tests which did not identify who performed the tests,

42 USC 1801.

(B) the proportion of bills and requests for payment submitted during such period for laboratory tests with respect to which the amount paid under such title was less than the amount that would otherwise have been payable in the absence of section 1842(h) of such Act,

Ante, p. 2625.

(C) with respect to requests for payment described in subparagraph (B) which were submitted by patients, the average additional cost per laboratory test to patients resulting from reductions in payment that would otherwise have been made for such tests in the absence of such section 1842(h), and

(D) with respect to bills described in subparagraph (B) which were submitted by physicians, the average reduction in payment per laboratory test to physicians resulting from the application of such section 1842(h).

42 USC 1395*l*.

(4) Section 1833(a)(1)(D) of the Social Security Act is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (h)".

42 USC 1396a.

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 914(b)(1) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (41);

(B) by striking out the period at the end of paragraph (42) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (42) the following new paragraph:

"(43) if the State plan makes provision for payment to a physician for laboratory services the performance of which such physician (or any other physician with whom he shares his practice) did not personally perform or supervise, include provision to insure that payment under the State plan for such laboratory services not exceed the payment authorized for such services by section 1842(h).".

42 USC 1396a note.

(2)(A) The amendments made by paragraph (1) shall (except as otherwise provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social

Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of the enactment of this Act. 42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

STUDY OF NEED FOR DUAL PARTICIPATION OF SKILLED NURSING FACILITIES

SEC. 919. (a)(1) The Secretary of Health and Human Services shall conduct a study of the availability and need for skilled nursing facility services covered under part A of title XVIII of the Social Security Act and under State plans approved under title XIX of such Act. 42 USC 1395b-1 note. 42 USC 1395. 42 USC 1396.

(2) Such study shall include— Contents.

(A) an investigation of the desirability and feasibility of imposing a requirement that skilled nursing facilities (i) which furnish services to patients covered under State plans approved under title XIX of the Social Security Act also furnish such services to patients covered under part A of title XVIII of such Act, and (ii) which furnish services to patients covered under such title XVIII also furnish such services to patients covered under such State plans,

(B) an evaluation of the impact of existing laws and regulations on skilled nursing facilities and individuals covered under such State plans and under part A of such title XVIII, and an evaluation of the extent to which existing laws and regulations encourage skilled nursing facilities to accept only title XVIII beneficiaries or title XIX recipients, and

(C) an investigation of possible changes in regulations and legislation which would result in encouraging a greater availability of skilled nursing facility services.

(3) In developing such study, the Secretary shall consult with professional organizations, health experts, private insurers, nursing home providers, and consumers of skilled nursing facility services. Consultation.

(b) Within one year after the date of the enactment of this Act, the Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with recommendations with respect to the matters covered by such study (including any recommendations for administrative or legislative changes). Report to Congress.

Subpart III—Provisions Relating to Professional Standards Review Organizations (PSROs)

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 921. Section 1152(b)(1)(A) of the Social Security Act is amended— 42 USC 1320c-1.

(1) by inserting "and, if the organization so elects, of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges," after the comma at the end of clause (ii); and

(2) by inserting "(except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

42 USC 1320c-4.

REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

42 USC 1320c-11.

SEC. 922. (a) Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery or of dental medicine)" after "representatives".

Effective date. 42 USC 1320c-11 note.

(b) The amendment made by this section shall become effective 180 days after the date of the enactment of this Act.

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

42 USC 1320c-12.

SEC. 923. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861(r)(1))," after "physicians,".

42 USC 1395x.

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting in lieu thereof "five members".

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" before "members".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

42 USC 1320c-22. 42 USC 1320c-4, 1320c-12.

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

42 USC 1320c-12 note.

(f) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

REQUIRED ACTIVITIES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

42 USC 1320c-3.

SEC. 924. (a)(1) Subsection (b) of section 1154 of the Social Security Act is amended—

(A) by striking out "in addition to review of health care services provided by or in institutions, only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing" in the first sentence and inserting in lieu thereof "in addition to review of health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals and to review of alcohol detoxification facility services, only such of the duties and functions as he requires the organization to perform under subsection (f)(2) or subsection (f)(4) and which the organization is capable of performing"; and

(B) by striking out "only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided by or in institutions (including ancillary serv-

ices) and, in addition, review of such other health care services as the Secretary may require" in the second sentence and inserting in lieu thereof "only if the Secretary finds that it is substantially carrying out in a satisfactory manner the activities and functions required of that Professional Standards Review Organization under this part".

(2) Subsection (c) of such section is amended by inserting "of that organization" after "required under this part".

(3) Such section if further amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall establish a program (hereinafter in this subsection referred to as the 'program') for the evaluation of the cost-effectiveness of review of particular health care services by Professional Standards Review Organizations. Review program.

"(2) In order to demonstrate the cost-effectiveness of requiring review of particular health care services before such review is generally required, the program shall be designed in a manner so that the Secretary will require particular Professional Standards Review Organizations, chosen by a statistically valid method that will permit a valid evaluation of the cost-effectiveness of such review, to review particular health care services.

"(3) The program shall provide for the evaluation of cost-effectiveness of the review of particular health care services under the program, particularly in comparison with areas in which such review was not required or performed.

"(4) Based upon such evaluation, or upon an evaluation of comparable statistical validity, and a finding that review of particular health care services is cost-effective or yields other significant benefits, the Secretary shall specify such particular health care services which Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) have the duty and function of reviewing under this part.

"(5) For purposes of this subsection, the term 'particular health care services' does not include health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals or alcohol detoxification facility services.". "Particular health care services."

(b) Section 1155(a) of such Act is amended— 42 USC 1320c-4.

(1) by striking out "at the earliest date practicable" in paragraph (1) and inserting in lieu thereof "to the extent and at the time specified by the Secretary under section 1154(f)"; *Ante*, p. 2628.

(2) by inserting ", consistent with section 1154(f)," in paragraph (7)(A) after "only"; and

(3) by inserting "(consistent with section 1154(f))" in paragraph (7)(B) after "to the extent".

(c) Subsection (g) of section 1155 of such Act is repealed. Repeal. 42 USC 1320c-4.

(d) Section 1155 of such Act is amended by adding at the end thereof the following new subsection:

"(h) If the Secretary has designated an organization (other than under section 1154) as a Professional Standards Review Organization, but that organization has not assumed responsibility for the review of particular activities in its area included in subsection (a)(1), the Secretary may designate another qualified Professional Standards Review Organization (in reasonable proximity to the providers and practitioners whose services are to be reviewed) to assume the responsibility for the review of some or all of those particular activities.". 42 USC 1320c-3.

EFFICIENCY IN DELEGATED REVIEW

42 USC 1320c-4.

SEC. 925. Section 1155(e) of the Social Security Act is amended by striking out "effectively and in timely fashion" and inserting in lieu thereof "effectively, efficiently, and in timely fashion".

REVIEW OF ROUTINE HOSPITAL ADMISSION SERVICES AND PREOPERATIVE HOSPITAL STAYS BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

42 USC 1320c-4.

SEC. 926. Section 1155(a)(2) of the Social Security Act is amended to read as follows:

"(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

"(A) any elective admission to a hospital or other health care facility (including admissions occurring on weekends), and

"(B) any routine diagnostic services furnished in connection with such an admission,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in subparagraphs (A) and (C) of paragraph (1). Each such Organization may be directed by the Secretary to excercise such authority where the Secretary finds (consistent with section 1154(f)) that such determinations can be made on a timely basis by the Organization and appropriate procedures will be applied to assure prompt notification of such determinations to providers, physicians, practitioners, and persons on whose behalf payment may be made under this Act for services and items.".

Ante, p. 2628.

CONSULTATION BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS WITH HEALTH CARE PRACTITIONERS

42 USC 1320c-4.

SEC. 927. (a) Section 1155(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) Each Professional Standards Review Organization shall consult (with such frequency and in such manner as may be prescribed by the Secretary) with representatives of health care practitioners (other than physicians described in section 1861(r)(1)) and of institutional and noninstitutional providers of health care services, in relation to the Professional Standards Review Organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.".

42 USC 1395x.

42 USC 1320c-11.

(b) Section 1162(e) of such Act is amended by striking out the first parenthetical material in paragraph (1) and the parenthetical material in paragraph (2).

Effective date. 42 USC 1320c-4 note.

(c) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

RESPONSE OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS TO FREEDOM OF INFORMATION ACT REQUESTS

42 USC 1320c-15 note.

42 USC 1320c.

SEC. 928. No Professional Standards Review Organization designated (conditionally or otherwise) under part B of title XI of the Social Security Act shall be required to make available any records pursuant to a request made under section 552 of title 5, United States Code, until the later of (1) one year after the date of entry of a final court order requiring that such records be made available, or (2) the last date of the Congress during which the court order was entered.

STUDY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS NORMS, STANDARDS, AND CRITERIA

SEC. 929. The Secretary of Health and Human Services shall, in consultation with the National Professional Standards Review Council, conduct a nationwide study of the differences in medical criteria and length-of-stay norms utilized by Professional Standards Review Organizations in the various regions of the country. The study shall include an assessment of the rationale that contributes to these regional differences. The Secretary shall report the findings and conclusions made with respect to the study to the Congress within one year after the date of the enactment of this Act. 42 USC 1320c note. Report to Congress.

PART B—PROVISIONS RELATING TO MEDICARE

Subpart I—Changes in Services or Benefits

HOME HEALTH SERVICES

SEC. 930. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, and home health services". 42 USC 1395c.

(b) Section 1812(a)(3) of such Act is amended to read as follows: 42 USC 1395d.

"(3) home health services.".

(c) Section 1812(d) of such Act is repealed. Repeal.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu thereof "and post-hospital extended care services".

(e) Sections 1814(a) and 1835(a) of such Act are amended by adding the following new sentence at the end of each such section: "With respect to the physician certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than July 1, 1981, and which prohibit a physician who has a significant ownership interest in, or a significant financial or contractural relationship with, such home health agency from performing such certification and from establishing or reviewing such plan.". Regulations. 42 USC 1395f, 1395n.

(f) Section 1814(a)(2)(D) of such Act is amended— 42 USC 1395f.

(1) by striking out "post-hospital home health services" and inserting in lieu thereof "home health services";

(2) by inserting ", occupational," after "or physical"; and

(3) by striking out ", for any of the conditions" and all that follows through "extended care services".

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year". 42 USC 1395k.

(h) Section 1833(b) of such Act is amended— 42 USC 1395*l*.

(1) by striking out "and" at the end of clause (1) in the first sentence; and

(2) by inserting before the period at the end of the first sentence the following: ", (3) such deductible shall not apply with respect to home health services".

(i) Section 1834 of such Act is repealed. Repeal. 42 USC 1395m.

42 USC 1395m. (j) Section 1835(a)(2)(A) of such Act is amended by inserting ", occupational," after "or physical".

42 USC 1395x. (k) Section 1861(e) of such Act is amended—

(1) by striking out "subsections (i) and (n)" in the material preceding paragraph (1) and inserting in lieu thereof "subsection (i)", and

(2) by striking out "subsections (i) and (n)" in the third sentence and inserting in lieu thereof "subsection (i)".

(l) Section 1861(m)(4) of such Act is amended by inserting the following before the semicolon: "who has successfully completed a training program approved by the Secretary".

Repeal. (m) Section 1861(n) of such Act is repealed.

(n) Section 1861(o) of such Act is amended—

(1) by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by adding the following new paragraph after paragraph (6):

"(7) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary for the financial security of the program) as the Secretary finds necessary for the effective and efficient operation of the program;"; and

(2) by striking out "except that" the first place it appears in the material following paragraph (6) and all that follows through "regulations; and"

42 USC 1395h. (o) Section 1816(e) of such Act is amended—

(1) by inserting "(subject to the provisions of paragraph (4))" after "the Secretary may" in paragraph (2); and

(2) by adding the following new paragraph at the end thereof:

"(4) Notwithstanding subsections (a) and (d) and paragraphs (1), (2), and (3) of this subsection, the Secretary shall designate regional agencies or organizations which have entered into an agreement with him under this section to perform functions under such agreement with respect to home health agencies (as defined in section 1861(o)) in the region, except that in assigning such agencies to such designated regional agencies or organizations the Secretary shall assign a home health agency which is a subdivision of a hospital (and such agency and hospital are affiliated or under common control) only if, after applying such criteria relating to administrative efficiency and effectiveness as he shall promulgate, he determines that such assignment would result in the more effective and efficient administration of this title.".

42 USC 1395x. (p) Section 1861(v)(1) of such Act is amended by adding after subparagraph (G) (as added by section 902(a)(1) of this title) the following new subparagraph:

Reasonable costs, determination. "(H) In determining such reasonable cost with respect to home health agencies, the Secretary may not include—

"(i) any costs incurred in connection with bonding or establishing an escrow account by any such agency as a result of the financial security requirement described in subsection (o)(7);

"(ii) in the case of home health agencies to which the financial security requirement described in subsection (o)(7) applies, any costs attributed to interest charged such an agency in connection with amounts borrowed by the agency to repay overpayments made under this title to the agency, except that such costs may be included in reasonable cost if the Secretary determines that the agency was acting in good faith in borrowing the amounts;

"(iii) in the case of contracts entered into by a home health agency after the date of the enactment of this subparagraph for

the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract (I) which is entered into for a period exceeding five years, or (II) which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency; and

"(iv) in the case of contracts entered into by a home health agency before the date of the enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract, which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency, to the extent that such cost exceeds the reasonable value of the services furnished on behalf of such agency.".

(q) Section 226(c)(1) of such Act is amended— 42 USC 426.

(1) by striking out "and post-hospital home health services" and inserting in lieu thereof "and home health services"; and

(2) by striking out "or post-hospital home health services" in clause (B).

(r) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services". 45 USC 231f.

(s)(1) the amendments made by this section shall become effective with respect to services furnished on or after July 1, 1981, except that the amendments made by subsections (n)(1) and (o) shall become effective on the date of the enactment of this Act. 42 USC 1395x note.

(2) The Secretary of Health and Human Services shall take administrative action to assure that improvements, in accordance with the amendment made by subsection (n)(1), will be made not later than June 30, 1981.

ALCOHOL DETOXIFICATION FACILITY SERVICES

SEC. 931. (a) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph: 42 USC 1395d.

"(4) alcohol detoxification facility services.".

(b) Section 1814(a)(2) of such Act is amended by striking out "or" at the end of subparagraph (D), by inserting "or" at the end of subparagraph (E), and by adding after subparagraph (E) the following new subparagraph: 42 USC 1395f.

"(F) in the case of alcohol detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initiation of alcohol detoxification);".

(c) Section 1861(u) of such Act is amended by inserting "detoxification facility," after "home health agency,". 42 USC 1395x.

(d) Section 1861 of such Act is further amended by adding after subsection (aa) the following new subsection:

"Alcohol Detoxification Facility Services

"(bb)(1) The term 'alcohol detoxification facility services' means services provided by a detoxification facility in order to reduce or

eliminate the amount of alcohol in the body, but only to the extent that such services would be covered under subsection (b) if furnished as inpatient services by a hospital, or are physicians' services covered under subsection (s).

"(2) The term 'detoxification facility' means a public or voluntary community-based nonprofit facility, other than a hospital, which—

"(A) is engaged in furnishing to inpatients the services described in paragraph (1);

"(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

"(C) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

42 USC 1395cc.

"(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.".

Effective date.
42 USC 1395d note.

(e) The amendments made by subsections (a) through (d) of this section shall become effective on April 1, 1981.

Study.
42 USC 1395 *ll* note.

(f) The Secretary of Health and Human Services shall conduct a study and make recommendations, within 18 months after the date of the enactment of this Act, concerning the appropriateness of extending medicare coverage to drug detoxification, postdetoxification rehabilitation, and to outpatient detoxification and concerning incentives for the use of lower-cost detoxification facilities.

42 USC 1320c-4.

(g) Section 1155 of the Social Security Act is amended by adding after subsection (h) (added by section 924(d) of this title) the following new subsection:

"(i) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.".

42 USC 1320c-7.

(h) Section 1158 of such Act is amended—

(1) by striking out "section 1159 and subsection (d)" in subsection (a) and inserting in lieu thereof "subsections (d) and (e) of this section and in sections 1159, 1861(v)(1)(G), and 1902(h)", and

(2) by adding after subsection (d) the following new subsection:

"(e) Subsection (a) of this section shall not apply to a determination by a Professional Standards Review Organization under section 1155(a)(1)(C) that detoxification services provided or proposed to be provided in a hospital on an inpatient basis could be more economically provided in a detoxification facility.".

42 USC 1320c-4.

PREADMISSION DIAGNOSTIC TESTING

42 USC 1395*l*.

SEC. 932. (a)(1) Section 1833(a)(1) of the Social Security Act is amended—

(A) by striking out "and (E)" and inserting in lieu thereof "(E)", and

(B) by inserting the following after "section 1881," at the end of clause (E): "(F) with respect to expenses incurred for physicians' services (furnished by a physician who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all physicians' services which are preadmission diagnostic services furnished by the physician to individuals

42 USC 1395u.

enrolled under this part) which are preadmission diagnostic services for which payment may be made under this part and which are furnished (i) in the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital, or (ii) to the extent practicable as determined by regulations prescribed by the Secretary, in a physician's office within seven days of such individual's admission to a hospital as an inpatient, the amounts paid shall be equal to the reasonable charges for such services,".

(2) For amendment to section 1833(a) of the Social Security Act, with respect to the amount of payment for hospital outpatient preadmission diagnostic services, see section 942 of this title.

(b) The Secretary of Health and Human Services shall transmit to the Congress, no later than one year after the date of the enactment of this Act, a report describing the policy which has been developed and is being or will be implemented with respect to the amendments made by subsection (a)(1) of this section and by section 942 of this title as they concern expenses incurred for preadmission diagnostic testing furnished to an individual at a hospital within seven days of an individual's admission to another hospital.

Report to Congress. 42 USC 1395*l* note.

COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES

SEC. 933. (a) Section 1832(a)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by adding the following new subparagraph at the end thereof:

42 USC 1395k.

"(E) comprehensive outpatient rehabilitation facility services; and".

(b) Section 1835(a)(2) of such Act is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by inserting the following new subparagraph after subparagraph (D):

42 USC 1395m.

"(E) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and".

(c) Section 1861(u) of such Act is amended by inserting "comprehensive outpatient rehabilitation facility," immediately after "skilled nursing facility,".

42 USC 1395x.

(d) Section 1861(z) of such Act is amended by striking out "extended care facility," and inserting in lieu thereof "skilled nursing facility, comprehensive outpatient rehabilitation facility,".

(e) Section 1861 of such Act is amended by adding after subsection (bb) (added by section 931(d) of this title) the following new subsection:

"Comprehensive Outpatient Rehabilitation Facility Services

"(cc)(1) The term 'comprehensive outpatient rehabilitation facility services' means the following items and services furnished by a physician or other qualified professional personnel (as defined in regulations by the Secretary) to an individual who is an outpatient of

a comprehensive outpatient rehabilitation facility under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician—

"(A) physicians' services;

"(B) physical therapy, occupational therapy, speech pathology services, and respiratory therapy;

"(C) prosthetic and orthotic devices, including testing, fitting, or training in the use of prosthetic and orthotic devices;

"(D) social and psychological services;

"(E) nursing care provided by or under the supervision of a registered professional nurse;

"(F) drugs and biologicals which cannot, as determined in accordance with regulations, be self administered;

"(G) supplies, appliances, and equipment, including the purchase or rental of equipment; and

"(H) such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by comprehensive outpatient rehabilitation facilities,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an outpatient of a hospital.

"(2) The term 'comprehensive outpatient rehabilitation facility' means a facility which—

"(A) is primarily engaged in providing (by or under the supervision of physicians) diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons;

"(B) provides at least the following comprehensive outpatient rehabilitation services: (i) physicians' services (rendered by physicians, as defined in section 1861(r)(1), who are available at the facility on a full- or part-time basis); (ii) physical therapy; and (iii) social or psychological services;

42 USC 1395x.

"(C) maintains clinical records on all patients;

"(D) has policies established by a group of professional personnel (associated with the facility), including one or more physicians defined in subsection (r)(1) to govern the comprehensive outpatient rehabilitation services it furnishes, and provides for the carrying out of such policies by a full- or part-time physician referred to in subparagraph (B)(i);

"(E) has a requirement that every patient must be under the care of a physician;

"(F) in the case of a facility in any State in which State or applicable local law provides for the licensing of facilities of this nature (i) is licensed pursuant to such law, or (ii) is approved by the agency of such State or locality, responsible for licensing facilities of this nature, as meeting the standard establishment for such licensing;

"(G) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such facility, including conditions concerning qualifications of personnel in these facilities.".

42 USC 1395z.

(f) Section 1863 of such Act is amended by striking out "and (o)(6)" in the first sentence and inserting in lieu thereof "(o)(6), and (cc)(2)(I)".

(g) Section 1864(a) of such Act is amended— 42 USC 1395aa.

(1) by inserting "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" after "section 1861(aa)(2)" in the first sentence; and *Ante*, p. 2635.

(2) by inserting "comprehensive outpatient rehabilitation facility," after "rural health clinic," each place it appears in the second and fifth sentences.

(h) The amendments made by this section shall become effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period which begins on or after July 1, 1981. 42 USC 1395k note.

OUTPATIENT SURGERY

SEC. 934. (a) Section 1832(a)(2) of the Social Security Act is amended by adding after subparagraph (E) (added by section 933(a) of this title) the following new subparagraph: 42 USC 1395k.

"(F) facility services furnished in connnection with surgical procedures specified by the Secretary—

"(i) pursuant to section 1833(i)(1)(A) and performed in an ambulatory surgical center (which meets health, safety, and other standards specified by the Secretary in regulations) if the center has an agreement in effect with the Secretary by which the center agrees to accept the amount determined under section 1833(i)(2)(A) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all such services furnished by the center to individuals enrolled under this part, or *Infra.* 42 USC 1395u.

"(ii) pursuant to section 1833(i)(1)(B) and performed by a physician, described in section 1861(r)(1), in his office, if the Secretary has determined that— *Infra.* 42 USC 1395x.

"(I) a Professional Standards Review Organization (designated, conditionally or otherwise, under part B of title XI of this Act) is willing, able, and has agreed to carry out a review (on a sample or other reasonable basis) of the physician's performing such procedures in the physician's office, 42 USC 1320c.

"(II) the particular physician involved has agreed to make available to such Organization such records as the Secretary determines to be necessary to carry out the review, and

"(III) the physician is authorized to perform the procedure in a hospital located in the area in which the office is located,

and if the physician agrees to accept the amount determined under section 1833(i)(2)(B) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with such surgical procedure to individuals enrolled under this part.". *Infra.* 42 USC 1395u. 42 USC 1395x.

(b) Section 1833 of such Act is amended by adding at the end the following new subsection: 42 USC 1395*l*.

"(i)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations—

"(A) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in an ambulatory surgical center (meeting the standards specified under section 1832(a)(2)(F)(i)) or hospital outpatient department, and

Ante, p. 2637.

"(B) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in a physician's office.

"(2)(A) The amount of payment to be made for facility services furnished in connection with a surgical procedure specified pursuant to paragraph (1)(A) and furnished to an individual in an ambulatory surgical center described in such paragraph shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account the costs incurred by such centers, or classes of centers, generally in providing services furnished in connection with the performance of such procedure, and

"(ii) takes such costs into account in such a manner as will assure that the performance of the procedure in such a center will result in substantially less amounts paid under this title than would have been paid if the procedure had been performed on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(B) The amount of payment to be made under this part for facility services furnished, in connection with a surgical procedure specified pursuant to paragraph (1)(B), in a physician's office shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account additional costs, not usually included in the professional fee, incurred by physicians in securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and

"(ii) takes such items into account in such a manner which will assure that the performance of such procedure in the physician's office will result in substantially less amounts paid under this title than would have been paid if the services had been furnished on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) In the case of services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with surgical procedures (specified pursuant to paragraph (1) of this subsection) in a physician's office, an ambulatory surgical center described in such paragraph, or a hospital outpatient department, payment for such services shall be determined in accordance with subsection (a)(1)(G) if the physician accepts an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for such services.

42 USC 1395x.

42 USC 1395u.

"(4)(A) The Secretary is authorized to provide by regulations that in the case of a surgical procedure, specified by the Secretary pursuant to paragraph (1)(A), performed in an ambulatory surgical center described in such paragraph, there shall be paid (in lieu of any amounts otherwise payable under this part) with respect to the facility services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to subparagraph (B), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(B) In implementing this paragraph, the Secretary shall establish with respect to each surgical procedure specified pursuant to paragraph (1)(A) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.".

(c)(1) Section 1863 of the Social Security Act is amended by inserting "or by ambulatory surgical centers under section 1832(a)(2)(F)(i)," after "section 1861,". 42 USC 1395z.

(2) Section 1864(a) of such Act is amended— *Ante*, p. 2637, 42 USC 1395x.

(A) by inserting before the period at the end of the first sentence the following: ", or whether an ambulatory surgical center meets the standards specified under section 1832(a)(2)(F)(i)"; and 42 USC 1395aa. *Ante*, p. 2637.

(B) by inserting "ambulatory surgical center," in the fifth sentence after "health care facility," each place it appears.

(d)(1) Section 1833(a)(1) of such Act, as amended by section 932(a)(1) of this title, is further amended by inserting after the comma at the end of clause (F) the following new clause: "and (G) with respect to expenses incurred for services described in subsection (i)(3) under the conditions specified in such subsection, the amounts paid shall be the reasonable charge for such services,". 42 USC 1395*l*.

(2) For an additional amendment to section 1833(a) of the Social Security Act with respect to the amount of payment for outpatient surgical procedures, see section 942 of this title.

(3) The first sentence of section 1833(b) of such Act, as amended by section 930(h) of this title, is further amended by adding before the period at the end the following: ", and (4) such total amount shall not include expenses incurred for services the amount of payment for which is determined under subsection (a)(1)(G) or under subsection (i)(2) or (i)(4)".

OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 935. (a) Section 1833(g) of the Social Security Act is amended by striking out "$100" and inserting in lieu thereof "$500". 42 USC 1395*l*.

(b) The amendment made by subsection (a) shall apply to expenses incurred in calendar years beginning with calendar year 1982. 42 USC 1395*l* note.

DENTISTS' SERVICES

SEC. 936. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dental surgery or of dental medicine who is legally authorized to 42 USC 1395x.

practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,".

42 USC 1395f. (b) Section 1814(a)(2)(E) of such Act is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services; or".

42 USC 1395y. (c) Section 1862(a)(12) of such Act is amended by inserting "or because of the severity of the dental procedure," after "clinical status".

42 USC 1395f note. (d) The amendments made by this section shall apply with respect to services provided on or after July 1, 1981.

OPTOMETRISTS' SERVICES

42 USC 1395x. Recommendations, submittal to Congress. SEC. 937. (a) Clause (4) of the first sentence of section 1861(r) of the Social Security Act is amended by striking out "but only with respect to establishing the necessity for prosthetic lenses," and inserting in lieu thereof "but only with respect to services related to the condition of aphakia,".

42 USC 1395ll note. (b) The Secretary of Health and Human Services shall submit to the Congress by January 1, 1982, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with cataracts and such other services which they are legally authorized to perform.

42 USC 1395. 42 USC 1395x note. (c) The amendment made by subsection (a) shall apply to services furnished on on after July 1, 1981.

ANTIGENS

42 USC 1395x. SEC. 938 (a). Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by adding "and" after the semicolon at the end of subparagraph (F), and by inserting the following new subparagraph after subparagraph (F):

"(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;".

42 USC 1395x note. (b) The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1981.

TREATMENT OF PLANTAR WARTS

42 USC 1395y. SEC. 939. (a) Section 1862(a)(13)(C) of the Social Security Act is amended by striking out ", warts,".

42 USC 1395y note. (b) The amendment made by subsection (a) shall apply with respect to services furnished on or after July 1, 1981.

Subpart II—Administrative Changes and Miscellaneous Provisions

PRESUMED COVERAGE PROVISIONS

SEC. 941. (a) Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h). 42 USC 1395f.

(b) Section 1814(c) of such Act is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (h)". 42 USC 1395f note.

(c) The amendments made by this section shall take effect on January 1, 1981.

PAYMENT TO PROVIDERS OF SERVICES

SEC. 942. Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following: 42 USC 1395l.

"(2) in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D), (E), and (F) of such section and in paragraph (5) of this subsection and unless otherwise specified in section 1881)— 42 USC 1395k. 42 USC 1395rr.

"(A) with respect to home health services, the reasonable cost of such services, as determined under section 1861(v); 42 USC 1395x.

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph), the reasonable costs of such services, as so determined, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of such costs; and 42 USC 1395cc.

"(C) with respect to services described in the second sentence of section 1861(p), 80 percent of the reasonable charges for such services; 42 USC 1395x.

"(3) in the case of services described in subparagraphs (D) and (E) of section 1832(a)(2), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services exceed 80 percent of such costs; 42 USC 1395k. 42 USC 1395x. 42 USC 1395cc.

"(4) in the case of facility services described in subparagraph (F) of section 1832(a)(2), the applicable amount described in paragraph (2) of section 1833(i); and 42 USC 1395k. *Ante*, p. 2637.

"(5) in the case of preadmission diagnostic services described in section 1861(s)(2)(C) which are furnished to an individual by the outpatient department of a hospital within 7 days of such individual's admission to the same hospital as an inpatient or (to the extent practicable as determined by regulations prescribed by the Secretary) to another hospital, the reasonable costs for such services.". 42 USC 1395x.

LIMITATION ON PAYMENTS TO RADIOLOGISTS AND PATHOLOGISTS

SEC. 943. (a) Subsections (a)(1)(B) and (b)(2) of section 1833 of the Social Security Act are each amended by inserting after "pathology" the following: "who has in effect an agreement with the Secretary by which the physician agrees to accept an assignment (as provided for in section 1842(b)(3)(B)(ii)) for all physicians' services furnished by him to hospital inpatients enrolled under this part". 42 USC 1395l. 42 USC 1395u.

42 USC 1395l. (b) The amendments made by subsection (a) shall apply to services furnished after the sixth calendar month beginning after the date of the enactment of this Act.

PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY

42 USC 1395n. SEC. 944. (a) Section 1835(a)(2)(D)(ii) of the Social Security Act is amended by inserting after "established" the following: "by a physician or by the speech pathologist providing such services".

42 USC 1395n note. (b) The amendment made by subsection (a) shall apply to plans for furnishing services established on or after January 1, 1981.

REENROLLMENT AND OPEN ENROLLMENT IN PART B

Repeal. 42 USC 1395p. SEC. 945. (a) Subsection (b) of section 1837 of the Social Security Act is repealed.

(b)(1) Subsection (e) of such section is amended to read as follows: "(e) There shall be a general enrollment period which is any period after the period described in subsection (d).".

(2) Subsection (g)(3) of such section is amended by striking out "the earlier of the then current" and all that follows through "subsection (e) of this section)" and inserting in lieu thereof "the month in which the individual files an application establishing such entitlement".

42 USC 1395q. (c)(1) Section 1838(a)(2)(E) of such Act is amended by striking out "the July 1" and inserting in lieu thereof "the first day of the third month".

42 USC 1395r. (2) The second sentence of subsection (d) of section 1839 of such Act is amended by striking out "who enrolls for the second time) (2)" and all that follows through "in which he enrolled for the second time" and inserting in lieu therof "who reenrolls) (2) the months which elapsed between the date of termination of a previous coverage period and the month after the month in which he reenrolled".

42 USC 1395p note. (d) The amendments made by subsections (a), (b), and (c) shall apply to enrollments occurring on or after April 1, 1981.

42 USC 1395v. (e) Section 1843 of the Social Security Act is amended by inserting "or during 1981," in subsections (a), (g)(1), and (h)(1) after "January 1, 1970," each place it appears.

DETERMINATION OF REASONABLE CHARGE

42 USC 1395u. SEC. 946. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "in which the service is rendered".

(b) Such section is further amended by striking out "and" at the end of subparagraph (D), by inserting "and" after the semicolon at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

"(F) will take such action as may be necessary to assure that where payment under this part for a service rendered is on a charge basis, such payment shall be determined on the basis of the charge that is determined in accordance with this section on the basis of customary and prevailing charge levels in effect at the time the service was rendered or, in the case of services rendered more than 12 months before the year (ending on June 30) in which the bill is submitted or request for payment is made, on the basis of such levels in effect for the 12-month period preceding such year;".

(c) The amendments made by subsections (a) and (b) shall become effective with respect to bills submitted or requests for payment made on or after July 1, 1981. 42 USC 1395u note.

SHORTENED PART B TERMINATION PERIOD FOR CERTAIN INDIVIDUALS WHOSE PREMIUMS MEDICAID HAS CEASED TO PAY

SEC. 947. (a) Section 1843(e) of the Social Security Act is amended by adding at the end thereof the following: "The coverage period under this part of any such individual who (in the last month of his coverage period attributable to the State agreement or in any of the following six months) files notice that he no longer wishes to participate in the insurance program established by this part, shall terminate at the close of the month in which the notice is filed.". 42 USC 1395v.

(b) The second sentence of section 1838(b) of such Act is amended by inserting "(except as otherwise provided in section 1843(e))" after "shall". 42 USC 1395q.

(c) Section 1843(g)(2) of such Act is amended— 42 USC 1395v.

(1) by adding "and" at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

(d) The amendments made by this section apply to notices filed after the third calendar month beginning after the date of the enactment of this Act. 42 USC 1395v note.

(e) The coverage period under part B of title XVIII of the Social Security Act of an individual whose coverage period attributable to a State agreement under section 1843 of such Act is terminated and who has filed notice before the end of the third calendar month beginning after the date of the enactment of this Act that he no longer wishes to participate in the insurance program established by part B of title XVIII shall terminate on the earlier of (1) the day specified in section 1838 without the amendments made by this section, or (2) (unless the individual files notice before the day specified in this clause that he wishes his coverage period to terminate as provided in clause (1)) the day on which his coverage period would terminate if the individual filed notice in the fourth calendar month beginning after the date of the enactment of this Act. 42 USC 1395v note. 42 USC 1395j. 42 USC 1395v. 42 USC 1395j. 42 USC 1395q.

REIMBURSEMENT OF PHYSICIANS' SERVICES IN TEACHING HOSPITALS

SEC. 948. (a)(1) Paragraph (7) of section 1861(b) of the Social Security Act is amended to read as follows: 42 USC 1395x.

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Section 1832(a)(2)(B)(i)(II) of such Act is amended by striking out ", unless either clause (A) or (B) of paragraph (7) of such section is met" and inserting in lieu thereof "where the conditions specified in paragraph (7) of such section are met". 42 USC 1395k.

(b) Section 1842(b) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 1395u.

"(6)(A) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section

42 USC 1395x. *Ante*, p. 2643.

1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), the carrier shall not provide (except on the basis described in subparagraph (C)) for payment for such services under this part—

"(i) unless—

"(I) the physician renders sufficient personal and identifiable physicians' services to the patient to exercise full, personal control over the management of the portion of the case for which the payment is sought,

"(II) the services are of the same character as the services the physician furnishes to patients not entitled to benefits under this title, and

"(III) at least 25 percent of the hospital's patients (during a representative past period, as determined by the Secretary) who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) paid all or a substantial part of charges (other than nominal charges) imposed for such services; and

"(ii) to the extent that the amount of the payment exceeds the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B)).

"(B) The customary charge for such services in a hospital shall be determined in accordance with regulations issued by the Secretary and taking into account the following factors:

"(i) In the case of a physician who has a substantial practice outside the teaching setting, the carrier shall take into account the amounts the physician charges for similar services in the physician's outside practice.

"(ii) In the case of a physician who does not have a practice described in clause (i), if the hospital, its physicians, or other appropriate billing entity has established one or more schedules of charges which are collected for medical and surgical services, the carrier shall base payment under this title on the greater of—

"(I) the charges (other than nominal charges) which are most frequently collected in full or substantial part with respect to patients who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) of subparagraph (A)(i), or

"(II) the mean of the charges (other than nominal charges) which were collected in full or substantial part with respect to such patients.

"(C) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), if the conditions described in subclauses (I) and (II) of subparagraph (A)(i) are met and if the physician elects payment to be determined under this subparagraph, the carrier shall provide for payment for such services under this part on the basis of regulations of the Secretary governing reimbursement for the services of hospital-based physicians (and not on any other basis).".

42 USC 1395x note.

(c)(1) The amendments made by subsection (a) shall apply with respect to cost accounting periods beginning on or after October 1, 1978. A hospital's election under section 1861(b)(7)(A) of the Social Security Act (as administered in accordance with section 15 of Public Law 93-233) as of September 30, 1978, shall constitute such hospital's election under such section (as amended by subsection (a)(1)) on and after October 1, 1978, until otherwise provided by the hospital.

Ante, p. 2643. 42 USC 1395k, 1395x and note.

(2) The amendment made by subsection (b) shall apply with respect to cost accounting periods beginning on or after January 1, 1981. 42 USC 1395u note.

FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL HOSPITALS

SEC. 949. Section 1861(e) of the Social Security Act is amended by adding the following new sentence at the end thereof: "The term 'hospital' also includes a facility of fifty beds or less which is located in an area determined by the Secretary to meet the definition relating to a rural area described in subparagraph (A) of paragraph (5) of this subsection and which meets the other requirements of this subsection, except that— 42 USC 1395x.

"(A) with respect to the requirements for nursing services applicable after December 31, 1978, such requirements shall provide for temporary waiver of the requirements, for such period as the Secretary deems appropriate, where (i) the facility's failure to fully comply with the requirements is attributable to a temporary shortage of qualified nursing personnel in the area in which the facility is located, (ii) a registered professional nurse is present on the premises to render or supervise the nursing service provided during at least the regular daytime shift, and (iii) the Secretary determines that the employment of such nursing personnel as are available to the facility during such temporary period will not adversely affect the health and safety of patients;

"(B) with respect to the health and safety requirements promulgated under paragraph (9), such requirements shall be applied by the Secretary to a facility herein defined in such manner as to assure that personnel requirements take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which such facility is located, and the scope of services rendered by such facility; and the Secretary, by regulations, shall provide for the continued participation of such a facility where such personnel requirements are not fully met, for such period as the Secretary determines that (i) the facility is making good faith efforts to fully comply with the personnel requirements, (ii) the employment by the facility of such personnel as are available to the facility will not adversely affect the health and safety of patients, and (iii) if the Secretary has determined that because of the facility's waiver under this subparagraph the facility should limit its scope of services in order not to adversely affect the health and safety of the facility's patients, the facility is so limiting the scope of services it provides; and

"(C) with respect to the fire and safety requirements promulgated under paragraph (9), the Secretary may (i), waive, for such period as he deems appropriate, specific provisions of such requirements which if rigidly applied would result in unreasonable hardship for such a facility and which, if not applied, would not jeopardize the health and safety of patients, and (ii) may accept a facility's compliance with all applicable State codes relating to fire and safety in lieu of compliance with the fire and safety requirements promulgated under paragraph (9), if he determines that such State has in effect fire and safety codes, imposed by State law, which adequately protect patients.".

HOSPITAL TRANSFER REQUIREMENT FOR SKILLED NURSING FACILITY COVERAGE

42 USC 1395x.

SEC. 950. Section 1861(i) of the Social Security Act is amended—

(1) by striking out "14 days" each place it appears and inserting in lieu thereof "30 days"; and

(2) by striking out ", or (B) within 28 days" and all that follows through "he resides, or (C)" and inserting in lieu thereof ", or (B)".

CERTIFICATION AND UTILIZATION REVIEW BY PODIATRISTS

42 USC 1395x.

SEC. 951. (a) Section 1861(r)(3) of the Social Security Act is amended to read as follows: "(3) a doctor of podiatric medicine for the purposes of subsection (s) of this section but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them; and for the purposes of subsections (k) and (m) of this section and sections 1814(a) and 1835 but only if his performance of functions under subsections (k) and (m) and sections 1814(a) and 1835 is consistent with the policy of the institution or agency with respect to which he performs them and with the functions which he is legally authorized to perform,".

Ante, p. 2631, 42 USC 1395n.

42 USC 1395x.

(b) Section 1861(k)(2)(A) of such Act is amended by inserting after "two or more physicians" the following: "(of which at least two must be physicians described in subsection (r)(1) of this section)".

Effective date. 42 USC 1395x note.

(c) The amendments made by this section shall take effect on January 1, 1981.

ACCESS TO BOOKS AND RECORDS OF SUBCONTRACTORS

42 USC 1395x.

SEC. 952. Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (H) (added by section 930(p) of this title) the following new subparagraph:

"(I) In determining such reasonable cost, the Secretary may not include any costs incurred by a provider with respect to any services furnished in connection with matters for which payment may be made under this title and furnished pursuant to a contract between the provider and any of its subcontractors which is entered into after the date of the enactment of this subparagraph and the value or cost of which is $10,000 or more over a twelve-month period unless the contract contains a clause to the effect that—

"(i) until the expiration of four years after the furnishing of such services pursuant to such contract, the subcontractor shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the contract, and books, documents and records of such subcontractor that are necessary to certify the nature and extent of such costs, and

"(ii) if the subcontractor carries out any of the duties of the contract through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and

records of such organization that are necessary to verify the nature and extent of such costs.

The Secretary shall prescribe in regulation criteria and procedures which the Secretary shall use in obtaining access to books, documents, and records under clauses required in contracts and subcontracts under this subparagraph.".

MEDICARE LIABILITY SECONDARY WHERE PAYMENT CAN BE MADE UNDER LIABILITY OR NO FAULT INSURANCE

SEC. 953. Section 1862(b) of the Social Security Act is amended— 42 USC 1395y.

(1) by inserting "or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance" before the period at the end of the first sentence;

(2) by inserting ", policy, plan, or insurance" before the period at the end of the second sentence; and

(3) by adding at the end the following new sentence: "The Secretary may waive the provisions of this subsection in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.".

PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

SEC. 954. (a) Section 1870(f) of the Social Security Act is amended to read as follows: 42 USC 1395gg.

"(f) If an individual who received medical and other health services for which payment may be made under section 1832(a)(1) dies, and no assignment of the right to payment for such services was made by such individual before his death, and payment for such services has not been made— 42 USC 1395k.

"(1) if the person or persons who furnished the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

"(2) if the person or persons who furnished the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.".

(b) The amendment made by this section shall apply only to claims filed on or after January 1, 1981. 42 USC 1395gg note.

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 955. Section 1878(f)(1) of the Social Security Act is amended by inserting the following after the second sentence thereof: "Providers shall also have the right to obtain judicial review of any action of the fiscal intermediary which involves a question of law or regulations relevant to the matters in controversy whenever the Board determines (on its own motion or at the request of a provider of services as described in the following sentence) that it is without authority to decide the question, by a civil action commenced within sixty days of the date on which such determination is rendered. If a provider of 42 USC 1395oo.

services may obtain a hearing under subsection (a) and has filed a request for such a hearing, such provider may file a request for a determination by the Board of its authority to decide the question of law or regulations relevant to the matters in controversy (accompanied by such documents and materials as the Board shall require for purposes of rendering such determination). The Board shall render such determination in writing within thirty days after the Board receives the request and such accompanying documents and materials, and the determination shall be considered a final decision and not subject to review by the Secretary. If the Board fails to render such determination within such period, the provider may bring a civil action (within sixty days of the end of such period) with respect to the matter in controversy contained in such request for a hearing.".

PAYMENT WHERE BENEFICIARY NOT AT FAULT

42 USC 1395pp.

SEC. 956. (a) Section 1879 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of section 1861 (e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary shall take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.".

Effective date. 42 USC 1395pp note.

(b) The amendment made by subsection (a) shall take effect on January 1, 1981.

TECHNICAL RENAL DISEASE AMENDMENTS

42 USC 1395rr.

SEC. 957. (a) Section 1881(e) of the Social Security Act is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting a comma in lieu thereof;

(2) by inserting "and nonprofit entities which the Secretary finds can furnish equipment economically and efficiently," after "renal dialysis facilities," in paragraph (1);

(3) by striking out "such providers and facilities" and inserting in lieu thereof "such providers, facilities, and nonprofit entities"; and

(4) by striking out "or facility will—" in paragraph (2) and inserting in lieu thereof ", facility, or other entity will—".

42 USC 1395rr.

(b) Section 1881(g) of such Act is amended by striking out "April" each place it appears and inserting in lieu thereof "July".

STUDIES AND DEMONSTRATION PROJECTS

42 USC 1395*ll* note.

SEC. 958. (a) The Secretary of Health and Human Services shall develop and carry out a demonstration project to determine (1) the extent to which the commencement of nutritional therapy in early renal failure, utilizing (but not limited to) controlled protein substances, can retard or arrest the progression of the disease with a resultant substantive deferment of dialysis, and (2) the administra-

tive, financial, and other aspects of making such nutritional therapy generally available as part of the benefits received under title XVIII of the Social Security Act. 42 USC 1395.

(b) The Secretary shall submit, to the Congress, within one year after the date of the enactment of this Act, a report on the demonstration projects being conducted by the Secretary with respect to waiving the applicable cost sharing amounts which beneficiaries under title XVIII of the Social Security Act have to pay for obtaining a second opinion on having surgery performed. Such report shall include any recommendations for legislative changes in such title which the Secretary finds desirable as a result of such demonstration projects. Report to Congress.

(c) The Secretary shall conduct a study of the circumstances and conditions under which services furnished by registered dietitians should be covered as a home health benefit under title XVIII of the Social Security Act.

(d) The Secretary shall develop and carry out demonstration projects to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act.

(e) The Secretary shall, in consultation with appropriate professional organizations, conduct a comprehensive study of methods for providing coverage under part B of title XVIII of the Social Security Act for orthopedic shoes for individuals with disabling or deforming conditions who require special fitting considerations to help protect against increasing disability or serious medical complications or who require special shoes in conjunction with the use of an orthosis or foot support. The Secretary shall submit to the Congress, no later than July 1, 1981, a report on the findings of this study and such specific legislative recommendations as is appropriate with respect to the utilization, cost control, quality of care, and equitable and efficient administration of such an extension of coverage. 42 USC 1395j. Report to Congress.

(f) The Secretary shall conduct a study of the circumstances and conditions under which services furnished with respect to respiratory therapy should be covered as a home health benefit under title XVIII of the Social Security Act.

(g) The Secretary shall conduct a study involving a comprehensive analysis of the cost effects of alternative approaches to improving coverage under title XVIII of the Social Security Act for the treatment of various types of foot conditions.

(h) The Secretary shall submit a report on each of the demonstration projects and studies described in subsections (a), (c), (d), (f), and (g). Each such report shall be submitted within twenty-four months of the date of the enactment of this Act and shall contain any recommendations for legislative changes which the Secretary finds desirable as a result of conducting the demonstration project or study with respect to which the report is submitted. Report.

(i) Where any study or demonstration project conducted under this section relates to payments with respect to services furnished by independent practitioners, such study or project shall include an evaluation of the effect of such payments on coordination of care, cost, quality, and the organization in the provision of services and the utilization of services.

(j) Grants, payments under contracts, and other expenditures made for studies and demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the 42 USC 1395i.

42 USC 1395t.

Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

42 USC 1395g note.

SEC. 959. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1981, such payments shall be deferred until fiscal year 1982.

PART C—PROVISIONS RELATING TO MEDICAID

DISPUTED MEDICAID CLAIMS

42 USC 1396b.

SEC. 961. (a) Section 1903(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination (but not to exceed a period of twelve months with respect to disallowances made prior to October 1, 1981, or six months with respect to disallowances made thereafter) at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.".

42 USC 1316.

42 USC 1396b note.

(b) The amendment made by subsection (a) shall be effective with respect to expenditures for services furnished on or after October 1, 1980.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

42 USC 1396a.

SEC. 962. (a) Section 1902(a)(13)(E) of the Social Security Act is amended to read as follows:

"(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates (determined in accordance with methods and standards developed by the State) which the State finds, and makes

assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports by each skilled nursing or intermediate care facility and periodic audits by the State of such reports; and".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980. 42 USC 1396a note.

EXTENSION OF INCREASED FUNDING FOR STATE MEDICAID FRAUD CONTROL UNITS

SEC. 963. Section 1903(a)(6) of the Social Security Act is amended by striking out "an amount equal to" and all that follows through "with respect to costs incurred" and inserting in lieu thereof the following: 42 USC 1396b.

"an amount equal to—

"(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and

"(B) 75 per centum of the sums expended during each succeeding calendar quarter,

with respect to costs incurred".

CHANGE IN CALENDAR QUARTER FOR WHICH SATISFACTORY UTILIZATION REVIEW MUST BE SHOWN TO RECEIVE WAIVER OF MEDICAID REDUCTION

SEC. 964. Section 1903(g)(3)(B) of the Social Security Act is amended— 42 USC 1396b.

(1) by striking out "October 1, 1977" and inserting in lieu thereof "January 1, 1978"; and

(2) by striking out "the calendar quarter ending on December 31, 1977" and inserting in lieu thereof "any calendar quarter ending on or before December 31, 1978".

REIMBURSEMENT UNDER MEDICAID FOR SERVICES FURNISHED BY NURSE-MIDWIVES

SEC. 965. (a)(1) Subsection (a) of section 1905 of the Social Security Act is amended— 42 USC 1396d.

(A) by striking out "and" at the end of paragraph (16);

(B) by redesignating paragraph (17) as paragraph (18); and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) services furnished by a nurse-midwife (as defined in subsection (m)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not he is under the supervision of, or associated with, a physician or other health care provider; and".

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(m) The term 'nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified "Nurse-midwife."

by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

42 USC 1396a. (b) Section 1902(a) of such Act is amended—

(1) by striking out "clauses (1) through (5)" in paragraph (13)(B) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(2) by striking out "clauses (1) through (5)" in paragraph (13)(C)(i) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(3) by striking out "clauses numbered (1) through (16)" in paragraph (13)(C)(ii) and inserting in lieu thereof "paragraphs numbered (1) through (17)"; and

(4) by striking out "clauses (1) through (5) and (7)" in paragraph (14)(A)(i) and inserting in lieu thereof "paragraphs (1) through (5), (7), and (17)".

42 USC 1396a note. (c)(1) The amendments made by this section shall (except as provided under paragraph (2)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than one hundred and twenty days after the date of the enactment of this Act.

42 USC 1396. (2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

DEMONSTRATION PROJECTS RELATING TO THE TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES

42 USC 632a. SEC. 966. (a) The Secretary of Health and Human Services shall enter into agreements with States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of eligible participants as homemakers or home health aides, who shall provide authorized services to elderly or disabled individuals, or other individuals in need of such services, to whom such services, are not otherwise reasonably and actually available or provided, and who would, without the availability of such services, be reasonably anticipated to require institutional care.

"Eligible participant." (b) For purposes of this section, the term "eligible participant" means an individual who has voluntarily applied for participation and who, at the time such individual enters the project established under this section, has been certified by the appropriate agency of State or local government as being eligible for financial assistance under a State plan approved under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the ninety-day period which immediately precedes the date on which such individual enters such project and who, within such ninety-day period, had not been employed as a homemaker or home health aide.

(c)(1) The Secretary shall enter into agreements under this section with no more than twelve States. Priority shall be given to States

which have demonstrated interest in providing services of the type authorized under this section.

(2) A State may apply to enter into an agreement under this section in such manner and at such time as the Secretary may prescribe.

(3) Any State entering into an agreement with the Secretary under this section must—

(A) provide that the demonstration project shall be administered by a State health services agency designated for this purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act); 42 USC 1396.

(B) provide that the agency designated pursuant to subparagraph (A) shall, to the maximum extent feasible, arrange for coordinating its activities under the agreement with activities of other State agencies having related responsibilities;

(C) establish a formal training program, which meets such standards as the Secretary may establish to assure the adequacy of such program, to prepare eligible participants to provide part-time and intermittent homemaker services or home health aide services to individuals who are elderly, disabled, or otherwise in need of such services;

(D) provide for the full-time employment of those eligible participants who successfully complete the training program with one or more public agencies (or, by contract, with private bona fide nonprofit agencies) as homemakers or home health aides, rendering authorized services, under the supervision of persons determined by the State to be qualified to supervise the performance of such services, to individuals described in subsection (a) at wage levels comparable to the prevailing wage levels in the area for similar work;

(E) provide that such services provided under subparagraph (D) shall be made available without regard to income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding scale basis) for such services provided to individuals who have income in excess of 200 percent of the needs standard in such State under the State plan approved under part A of title IV of the Social Security Act for a household of the same size as such individual's household; 42 USC 601.

(F) provide for a system of continuing independent professional review by an appropriate panel, which is not affiliated with the entity providing the services involved, to assure that services are provided only to individuals reasonably determined to be in need of such supportive services;

(G) provide for evaluation of the project and review of all agencies providing services under the project;

(H) submit periodic reports to the Secretary as he may require; and

(I) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(4) The number of participants in any project shall not exceed that number which the Secretary determines to be reasonable, based upon the capability of the agencies involved to train, employ, and properly utilize eligible participants. Such number may be appropriately modified, subsequently, with the approval of the Secretary.

(5) Any contract with a private bona fide nonprofit agency entered into pursuant to paragraph (3)(D) shall provide for reasonable reimbursement of such agencies for services on a basis proportionate to

the amount of time allocated to individuals eligible to receive such services under this section (and, in case such agency is an institution, the amount of the reimbursement shall not exceed the amount of reimbursement which would have been payable if the services involved had been provided by a free-standing agency).

(6) For purposes of this section, a facility of the Veterans' Administration shall, at the request of the Administrator of Veterans' Affairs, be considered to be a public agency. In the case of any such facility which is so considered to be a public agency, of the costs determined under this section which are attributable to such facility, 90 percent shall be paid by the State and 10 percent by the Veterans' Administration.

(d)(1) For purposes of this section, authorized homemaker and home health aide services include part-time or intermittent—

(A) personal care, such as bathing, grooming, and toilet care;
(B) assisting patients having limited mobility;
(C) feeding and diet assistance;
(D) home management, housekeeping, and shopping;
(E) health-oriented recordkeeping;
(F) family planning services; and
(G) simple procedures for identifying potential health problems.

(2) Such authorized services do not include any services performed in an institution, or any services provided under circumstances where institutionalization would be substantially more efficient as a means of providing such services.

(e)(1) Agreements shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 90 percent of the reasonable costs incurred (less the Federal share of any related fees collected) by such State during such quarter in carrying out a demonstration project under this section, including reasonable wages and other employment costs of eligible participants employed full time under such project (and, for purposes of determining the amount of such additional payment, the 10 percent referred to in subsection (c)(6), paid by the Veterans' Administration, shall be deemed to be a cost incurred by the State in carrying out such a project).

42 USC 1396b.

(2) Demonstration projects under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for planning and development, and up to six months for final evaluation and reporting. Federal funding under this subsection shall not be available for the employment of any eligible participant under the project after such participant has been employed for a period of three years.

(f) For purposes of title IV of the Social Security Act, any eligible participant taking part in a training program under a project authorized under this section shall be deemed to be participating in a work incentive program established by part C of such title.

42 USC 601.

42 USC 630.

(g) For the first year (and such additional immediately succeeding period as the State may specify) during which an eligible participant is employed under the project established under this section, such participant shall, notwithstanding any other provision of law, retain any eligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, and any eligibility for social and supportive services provided under the State plan approved under part A of title IV of such Act, which such participant

42 USC 1396.

42 USC 601.

had at the time such participant entered the training program established under this section.

(h) The Secretary shall submit annual reports to the Congress evaluating the demonstration projects carried out under this section, and shall submit a final report to the Congress not more than six months after he has received the final reports from all States participating in such projects.

(i) The Secretary shall, and is hereby authorized to, waive such requirements, including formal solicitation and approval requirements, as will further expeditious and effective implementation of this section.

TITLE X—OTHER SOCIAL SECURITY ACT PROGRAMS; UNEMPLOYMENT COMPENSATION

Subtitle A—Public Assistance

FEDERAL DAY CARE REGULATIONS

SEC. 1001. (a) Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1397a.

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local law.".

(b) The provisions of section 3(f) of Public Law 93-647 shall not apply with respect to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local law. 42 USC 1397a note.

(c) The Department of Health and Human Services shall assist each State in conducting a systematic assessment of current practices in day care programs funded under title XX of the Social Security Act. Upon completion of such assessments, but not later than June 1, 1981, the Secretary shall provide a summary report of the results of such assessments to the Congress. 42 USC 1397.

ADDITIONAL SAVINGS

SEC. 1002. For provisions of law which reduce spending for fiscal year 1981 under public assistance programs under the Social Security Act in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see the Social Security Disability Amendments of 1980 (Public Law 96-265) and the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272). *Ante*, p. 441. *Ante*, p. 500.

Subtitle B—Old-Age, Survivors, and Disability Insurance Program

LIMIT ON RETROACTIVE BENEFITS

SEC. 1011. (a) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "prior to the end of the 42 USC 402.

twelfth month immediately succeeding such month." and inserting in lieu thereof the following: "prior to—

"(A) the end of the twelfth month immediately succeeding such month in any case where the individual (i) is filing application for a benefit under subsection (e) or (f), and satisfies paragraph (1)(B) of such subsection by reason of clause (ii) thereof, or (ii) is filing application for a benefit under subsection (b), (c), or (d) on the basis of the wages and self-employment income of a person entitled to disability insurance benefits, or

"(B) the end of the sixth month immediately succeeding such month in any case where subparagraph (A) does not apply.".

42 USC 402 note.

(b) The amendment made by subsection (a) shall be effective with respect to applications filed on or after the first day of the first month which begins 60 days or more after the date of the enactment of this Act.

ADDITIONAL SAVINGS

SEC. 1012. For provisions of law which reduce spending for fiscal year 1981 under the old-age, survivors, and disability insurance program in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see section 5 of Public Law 96-473, and the Social Security Disability Amendments of 1980 (Public Law 96-265).

Ante, p. 2264.
Ante, p. 441.

Subtitle C—Unemployment Compensation Provisions

TERMINATION OF PROVISIONS PROVIDING REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF PUBLIC SERVICE EMPLOYMENT

SEC. 1021. Part B of title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new section:

"TERMINATION

"Public service wages."
26 USC 3304 note.

"SEC. 224. Notwithstanding any other provision of this part, the term 'public service wages' shall not include remuneration for services performed in weeks which begin after the date of the enactment of this section."

WAITING PERIOD FOR BENEFITS

26 USC 3304 note.

SEC. 1022. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A)" after "compensation", and

(2) by inserting immediately before the period the following: ", or (B) paid for the first week in an individual's eligibility period for which extended compensation or sharable regular compensation is paid, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

26 USC 3304 note.

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after the date of the enactment of this Act.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to eliminate its current policy of paying regular compensation to an individual for his first week of otherwise compensable unemployment, the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning after the end of the first regularly scheduled session of the State legislature ending more than thirty days after the date of the enactment of this Act.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 1023. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code. For the purposes provided for in section 904(e), such account shall be maintained as a separate book account.". 42 USC 1109.

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account 5 USC 8509.

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of— *Supra.*

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this subchapter and making payments of compensation under this subchapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this subchapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to

the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

5 USC 8509 note.

(c) All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

5 USC 8501.

Ante, p. 2657.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

26 USC 3304 note.

SEC. 1024. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraphs:

"(3)(A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

"(i) during which he fails to accept any offer of suitable work (as defined in subparagraph (c)) or fails to apply for any suitable work to which he was referred by the State agency; or

"(ii) during which he fails to actively engage in seeking work.

"(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (i) or (ii) of subparagraph (A), the individual shall be ineligible to receive

extended compensation for any week which begins during a period which—

"(i) begins with the week following the week in which such failure occurs, and

"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(c)) for his benefit year.

"(C) For purposes of this paragraph, the term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law. "Suitable work."

"(D) Extended compensation shall not be denied under clause (i) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(i) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(I) the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C)) for his benefit year, plus

"(II) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; 26 USC 501.

"(ii) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(iii) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or

"(iv) if the position pays wages less than the higher of—

"(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or 29 USC 206.

"(II) any applicable State or local minimum wage.

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicants for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply. 26 USC 3304.

"(4) No provision of State law which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligiblity for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

"(5) No payment shall be made under this Act to any State in respect of any sharable regular compensation paid to any individual for any week if, under the rules of paragraphs (3) and (4), extended compensation would not have been payable to such individual for such week.".

26 USC 3304 note.

(b) The amendment made by this section shall apply with respect to weeks of unemployment beginning after March 31, 1981.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

26 USC 3304 note.

26 USC 3304.

SEC. 1025. On October 31 of any taxable year after 1980, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this subtitle to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

ADDITIONAL SAVINGS

SEC. 1026. For provisions of law which reduce spending for fiscal year 1981 under the unemployment compensation program in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see sections 415 and 416 of the Multiemployer Pension Plan Amendments Act of 1980 (Public Law 96-364).

Ante, p. 1310.

TITLE XI—REVENUE MEASURES

Revenue Adjustments Act of 1980.

26 USC 1 note.

SEC. 1100. SHORT TITLE.

This title may be cited as the "Revenue Adjustments Act of 1980".

Subtitle A—Housing Bonds

Mortgage Subsidy Bond Tax Act of 1980.

26 USC 1 note.

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Mortgage Subsidy Bond Tax Act of 1980".

SEC. 1102. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section:

26 USC 103A.

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103.

26 USC 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) TERMINATION DECEMBER 31, 1983.—No obligation issued after December 31, 1983, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences, and

"(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), and (j).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), and (f) and paragraphs (2) and (3) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (g), (h), and (i), and paragraph (1) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (j)(2).

"(d) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) FOR AN ISSUE.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 90 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR 2 TO 4 FAMILY RESIDENCES.—For purposes of this subsection, to the extent provided in regulations, the average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

"(5) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(6) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) LIMITATION ON AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) APPLICABLE LIMIT FOR STATE HOUSING AGENCY.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any State housing finance agency for any calendar year shall be 50 percent of the State ceiling for such year.

"(B) SPECIAL RULE WHERE MORE THAN 1 AGENCY.—If any State has more than 1 State housing finance agency, all such agencies shall be treated as a single agency.

"(3) APPLICABLE LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any issuing authority (other than a State housing finance agency) for any calendar year is an amount which bears the same ratio to 50 percent of the State ceiling for such year as—

"(i) the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority, bears to

"(ii) an average determined in the same way for the entire State.

"(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(4) STATE CEILING.—For purposes of this subsection, the State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such State, or

"(B) $200,000,000.

"(5) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any constitutional home rule city for any calendar year shall be determined under subparagraph (A) of paragraph (3) by substituting '100 percent' for '50 percent'.

"(B) COORDINATION WITH PARAGRAPHS (2) AND (3).—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying paragraphs (2) and (3) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate applicable

limits determined for such year for all constitutional home rule cities in such State.

"(C) CONSTITUTIONAL HOME RULE CITY.—For purposes of this subsection, the term 'constitutional home rule city' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year.

"(6) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), a State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(B) INTERIM AUTHORITY FOR GOVERNOR.—

"(i) IN GENERAL.—Except as otherwise provided in subparagraph (C), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(ii) TERMINATION OF AUTHORITY.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the first calendar year after 1980 during which the legislature of the State met in regular session, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of the enactment of this section.

"(C) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this paragraph shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

"(7) TRANSITIONAL RULES.—In applying this subsection to any calendar year, there shall not be taken into account any bond which, by reason of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, receives the same tax treatment as bonds issued on or before April 24, 1979.

Ante, p. 2660.

"(h) PORTION OF LOANS REQUIRED TO BE PLACED IN TARGETED AREAS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) LIMITATION.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences

located in targeted areas within the jurisdiction of the issuing authority.

"(i) REQUIREMENTS RELATED TO ARBITRAGE.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c). 26 USC 103.

"(2) EFFECTIVE RATE OF MORTGAGE INTEREST CANNOT EXCEED BOND YIELD BY MORE THAN 1 PERCENTAGE POINT.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1 percentage point.

"(B) EFFECTIVE RATE OF MORTGAGE INTEREST.—

"(i) IN GENERAL.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS NOT BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTION.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and 26 USC 1232.

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) NON-MORTGAGE INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) EXCEPTION FOR TEMPORARY PERIODS.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) DEBT SERVICE DEFINED.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(j) OTHER REQUIREMENTS.—

"(1) OBLIGATIONS MUST BE REGISTERED.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(2) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(3) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), and (f), are met with respect to such assumption.

"(k) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

"(7) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) DETERMINATIONS ON ACTUARIAL BASIS.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (i)(4)(A) shall be made on an actuarial basis taking into account the present value of money.

"(9) SINGLE-FAMILY AND OWNER-OCCUPIED RESIDENCES INCLUDE CERTAIN RESIDENCES WITH 2 TO 4 UNITS.—Except for purposes of subsections (g) and (h)(2), the terms 'single-family' and 'owner-occupied', when used with respect to residences, include 2, 3, or 4 family residences—

"(A) one unit of which is occupied by the owner of the units, and

"(B) which were first occupied at least 5 years before the mortgage is executed.

"(m) SPECIAL RULE FOR ISSUE USED FOR OWNER-OCCUPIED HOUSING AND RENTAL HOUSING.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b)(4)(A), under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(n) ADVANCE REFUNDING OF MORTGAGE SUBSIDY BONDS NOT PERMITTED.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2))."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

SEC. 1103. INDUSTRIAL DEVELOPMENT BONDS FOR HOUSING PURPOSES LIMITED TO LOW- OR MODERATE-INCOME RENTAL HOUSING.

(a) IN GENERAL.—Subparagraph (A) of paragraph (4) of section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended to read as follows: 26 USC 103.

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income (within the meaning of section 167(k)(3)(B)),".

26 USC 167.

26 USC 103.

(b) TARGETED AREA PROJECT DEFINED.—Paragraph (4) of section 103(b) of such Code is amended by inserting before the last sentence the following new sentence:

Ante, p. 2669.

"For purposes of subparagraph (A), the term 'targeted area project' means a project located in a qualified census tract (within the meaning of section 103A(k)(2)) or an area of chronic economic distress (within the meaning of section 103A(k)(3))."

26 USC 103.

(c) TECHNICAL AMENDMENT.—Paragraph (6) of section 103(b) of such Code (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(J) ISSUES FOR RESIDENTIAL PURPOSES.—This paragraph shall not apply to any obligation which is issued as a part of an issue a significant portion of the proceeds of which are to be used directly or indirectly to provide residential real property for family units."

SEC. 1104. EFFECTIVE DATES FOR BOND PROVISIONS.

26 USC 103A note.

(a) GENERAL RULE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by sections 1102 and 1103 shall apply to obligations issued after April 24, 1979.

(2) EXCEPTIONS FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1981.—The amendments made by sections 1102 and 1103 shall not apply to obligations issued before January 1, 1981, if such obligations are part of an issue substantially all the proceeds of which (exclusive of issuance costs and a reasonably required reserve) are, before the date which is 1 year after the date of issue of the obligations, committed—

(A) except as provided in subparagraph (B), by firm commitment letters (similar to those used in financing not provided with tax-exempt bonds), and

(B) in the case of rental housing, by the commencement of construction of the project or by the acquisition of the project.

(b) EXCEPTION FOR OFFICIAL ACTION TAKEN BEFORE APRIL 25, 1979.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to obligations if official action before April 25, 1979, of the governing body of the unit having authority to issue such obligations indicated an intent to issue such obligations.

(2) ACTION BY STAFF OF HOUSING AUTHORITY TREATED AS ACTION OF AUTHORITY IN CERTAIN CASES.—For purposes of paragraph (1), if, before April 25, 1979—

(A) the permanent professional staff of a State or local housing authority performed substantial work on a bond issue, and

(B) it was reasonable to expect that the bond issue, as developed by the staff, would be promptly approved by the governing body of the housing authority,

then such action by such staff shall be treated as the official action of such governing body.

(3) SPECIAL RULES RELATING TO SIZE OF ISSUE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an issue does not qualify for the exception provided by paragraph (1) if the issue size exceeds the intended issue size.

(B) EXCEPTION.—In the case of an issue to provide owner-financing for residences for which as of April 24, 1979, there was no documentation relating to intended issue size, paragraph (1) shall not apply unless—

(i) substantially all of the proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to provide owner-financing for one to four family residences (one unit of which is owner occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), and

Ante, p. 2660.

(ii) substantially all of the proceeds referred to in clause (i) are committed by firm commitment letters (similar to those used in owner-financing not provided with tax-exempt bonds) to such owner-financing before the day which is 9 months after the date of issue of the obligations.

(C) ISSUE SIZE DEFINED.—For purposes of this paragraph, the term "issue size" means the aggregate face amount of obligations issued pursuant to the issue.

(D) INTENDED ISSUE SIZE.—For purposes of this paragraph, the term "intended issue size" means the aggregate face amount of obligations which a reasonable individual would reasonably conclude from the documentation before April 25, 1979, was the issue size which the governing body of the issuing authority intended to issue.

(4) LOCAL REFERENDUM HELD BEFORE JUNE 13, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature,

(ii) on April 27, 1979, such legislation was amended to authorize local governmental units to issue tax-exempt obligations,

(iii) before June 13, 1979, such legislation was enacted and a local governmental unit in such State held a referendum with respect to the issuance of obligations to finance owner-occupied residences, and

(iv) any action with respect to the issuance of such obligations by the governing body of such local governmental unit would have met the requirements of paragraph (1) if such legislation had been in effect, and such referendum had been held, when that action was taken,

then such legislation shall be treated as in effect, and such referendum shall be treated as having been held, at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising

any local governmental area by reason of subparagraph (A) may not exceed—

(i) $35,000,000, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this paragraph) by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of this subsection (determined without regard to the application of subparagraph (A) of this paragraph).

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(5) CERTAIN LOCAL ACTION PURSUANT TO LEGISLATION ENACTED BEFORE SEPTEMBER 29, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) before September 29, 1979, such legislation was enacted, and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect when that action was taken,

then such legislation shall be treated as in effect at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $150,000,000.

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(c) $150,000,000 EXCEPTION FOR STATE HOUSING FINANCE AGENCIES.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by this subtitle shall not apply to obligations issued by a State housing finance agency.

(2) DOLLAR LIMIT FOR STATE HOUSING FINANCE AGENCIES.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of paragraph (1) may not exceed—

(A) $150,000,000, reduced by

(B) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by the housing finance agencies of such State after April 24, 1979, to finance owner-occupied residences and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve)—

(A) are to be used to provide owner-financing for 1 to 4 family residences (1 unit of which is owner-occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), *Ante*, p. 2660. and

(B) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

(4) SPECIAL RULE FOR ACTION IN 1978 PURSUANT TO MORTGAGE PROGRAM ESTABLISHED IN 1970.—

(A) IN GENERAL.—If—

(i) in 1970 State legislation established a program to issue tax-exempt obligations to finance the purchase of existing mortgages from financial institutions,

(ii) in August 1978, as a step toward issuing obligations under such program, the governing body of the housing agency administering the program made a finding that there was a shortage of mortgage funds within the State,

(iii) moneys received by any financial institution on the purchase of mortgages will be reinvested within 90 days in new mortgages, and

(iv) the issue meets the requirements of subparagraphs (B) and (C),

then paragraph (3) shall not apply with respect to an issue of obligations pursuant to the program referred to in clause (i) and the finding referred to in clause (ii).

(B) DOWNPAYMENT REQUIREMENT.—An issue meets the requirements of this subparagraph only if 75 percent or more of the financing provided under the issue is financing for residences where such financing constitutes 95 percent or more of the acquisition cost of the residences.

(C) TARGETED AREA REQUIREMENT.—An issue meets the requirements of this subparagraph only if at least 20 percent of the financing provided under the issue is owner-financing of targeted area residences. For purposes of the preceding sentence, the term "targeted area residence" means a residence in an area which is a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income (determined on the basis of the most recent decennial census for which data are available).

(D) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued by a State housing authority by reason of subparagraph (A) may not exceed $125,000,000.

(d) SPECIAL RULES.—

(1) COURT ACTION WAS PENDING TO DETERMINE SCOPE OF AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, a State had enacted a law under which counties were authorized to establish public trusts to issue tax-exempt obligations for public purposes,

(ii) on such date the question of whether or not that law authorized the issuance of obligations to finance certain owner-occupied residences was being litigated in a court of competent jurisdiction,

(iii) before July 31, 1979, the Supreme Court of such State held that the counties were so authorized, and

(iv) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of a county in such State had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

then the amendments made by section 1102 shall not apply to obligations issued by the public trust for such county.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any county by reason of subparagraph (A) may not exceed $50,000,000.

(2) STATE LEGISLATION ENACTED BEFORE JUNE 8, 1979, WHERE LOCALITY HAD ESTABLISHED INCOME LIMITATIONS BEFORE APRIL 25, 1979.—

(A) IN GENERAL.—If—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of the local governmental unit had taken action indicating to its delegation to the State legislature what the income limitation would be for individuals who would be eligible for mortgages under the program, and

(iii) before June 8, 1979, the legislation referred to in clause (i) was enacted,

then the amendments made by section 1102 shall not apply to obligations issued by the local governmental unit.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any local governmental area by reason of subparagraph (A) may not exceed $150,000,000.

(3) RESOLUTIONS BEFORE CITY COUNCIL BEFORE ENACTMENT OF STATE AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, 2 resolutions were submitted to a city council the first of which would create an urban residential finance authority and the second of which would authorize the appointment of the members of such authority,

(ii) at the time such resolutions were submitted, State authorizing legislation had not been enacted,

(iii) before April 25, 1979, the State authorizing legislation was enacted, and

(iv) after April 24, 1979, and before May 17, 1979, a resolution was adopted by the city council which created an urban residential finance authority and which authorized the appointment of members of the authority,

then the amendments made by section 1102 shall not apply with respect to obligations issued on behalf of such city.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any city by reason of subparagraph (A) may not exceed $50,000,000.

(4) SPECIAL RULE WHERE CITY POSTPONED SECOND HALF OF AUTHORIZED ISSUE TO SAVE INTEREST.—If—

(A) on March 28, 1979, the council of a city adopted a resolution authorizing the issuance of not to exceed $30,000,000 of mortgage revenue bonds,

(B) on or about August 1, 1979, approximately one-half of the obligations authorized by such resolution were issued, and

(C) the reason why the remaining obligations were not issued at that time was to save interest payments until the money was actually needed,

then the amendments made by section 1102 shall not apply with respect to the issuance of the remaining obligations which were authorized by such March 28, 1979, resolution.

(5) STATE WAS IN PROCESS OF PERMITTING LOCALITIES TO ESTABLISH NONPROFIT CORPORATIONS.—

(A) IN GENERAL.—If—

(i) a State law enacted after April 24, 1979, and before June 16, 1979, provides that local governments may establish nonprofit corporations to issue tax-exempt obligations to finance owner-occupied residences,

(ii) pursuant to such State law, a local government establishes such a nonprofit corporation and designates it for purposes of this subsection, and

(iii) on November 7 or 14, 1979, an amount was specified by or for the local government as the maximum amount of obligations which the local government expected the nonprofit corporation to issue with respect to the area under any transitional authority provided by this subtitle,

then the amendments made by section 1102 shall not apply to obligations issued by the nonprofit corporation with respect to the area for which such local government has jurisdiction.

(B) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph (A) may not exceed the amount referred to in subparagraph (A)(iii) which was specified on November 7 or 14, 1979, by or for the local government.

(C) SUBSTITUTION OF HOUSING AUTHORITIES, ETC.—For purposes of applying so much of paragraph (7) as relates to subparagraph (A)—

(i) if the local housing authority had the intent referred to in paragraph (7), such local housing authority shall be substituted for the local government, and

(ii) if the governing body of the local government is a commissioners court, the county judge who was on April 24, 1979, the presiding officer of such court shall be treated as the governing body of such government.

(6) OBLIGATIONS ISSUED UNDER THIS SUBSECTION MUST MEET THE REQUIREMENTS OF SUBSECTION (c)(3).—No obligation may be issued under this subsection unless the issue meets the requirements of subsection (c)(3).

(7) GOVERNING BODY MUST FILE AFFIDAVITS SHOWING INTENT ON APRIL 24, 1979.—No obligation may be issued under this subsection with respect to any area unless a majority of the members of the governing body of the local governmental unit having jurisdiction over that area file affidavits with the Secretary of the

Treasury (or his delegate) indicating that it was their intent on April 24, 1979, either that tax-exempt obligations be issued to provide financing for owner-occupied residences or that a program be established to issue such obligations.

(8) LIMITATIONS REDUCED BY CERTAIN OTHER ISSUES.—Any limitation on the amount of obligations which may be issued by any issuer by reason of any paragraph of this subsection shall be reduced by the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units with respect to the area within the jurisdiction of such issuer after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(e) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(1) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendments made by this subtitle shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) by local governmental units with respect to the area comprising any local governmental area may not exceed the lesser of—

(A) $10,000,000, or

(B) the aggregate amount of loans made with respect to that area under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued (before, on, or after the issue under this subsection) under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this subsection, the term "qualified rehabilitation loan program" means a program for the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(4) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(5) DOLLAR LIMIT ON QUALIFIED LOANS.—For purposes of this subsection, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds $20,000 plus $2,500 for each unit in excess of 1.

(f) $50 PER CAPITA EXCEPTION FOR LOCAL GOVERNMENTS.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by section 1102 shall not apply to mortgage subsidy bonds issued by local governmental units after April 24, 1979.

(2) LIMIT.—

(A) IN GENERAL.—The aggregate amount of obligations issued with respect to any area by reason of paragraph (1) shall not exceed—

(i) the amount equal to the product of $50 and the population of that area, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units after April 24, 1979, with respect to that area and to which the amendments made by this subtitle do not apply solely by reason of subsections (b), (d), and (e).

(B) DETERMINATION OF POPULATION.—For purposes of subparagraph (A), the population of any area shall be the population as of July 1, 1976, as determined for purposes of the State and Local Fiscal Assistance Act of 1972. 31 USC 1221 note.

(3) UNIT MUST ESTABLISH THAT ACTION WAS TAKEN BEFORE APRIL 25, 1979.—Paragraph (1) shall not apply with respect to any obligation issued by any local governmental unit unless—

(A) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of such local governmental unit had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

(B) on October 30, 1979, such local governmental unit had authority to issue obligations to finance owner-occupied residences, and

(C) a majority of the members of the governing body of the local governmental unit file with the Secretary of the Treasury (or his delegate) affidavits that the requirement of such subparagraph (A) is met.

For purposes of subparagraph (A), action of the governing body of a second local governmental unit with respect to the same area shall be treated as action of the issuing governmental unit.

(4) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3) of subsection (c).

(5) OVERLAPPING JURISDICTIONS.—For purposes of this subsection, if 2 or more local governmental units meet the requirements of paragraph (3) and have authority to issue mortgage subsidy bonds with respect to residences in the same area, only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of the amount permitted under this subsection to the local governmental unit with overlapping jurisdiction which has the next smallest geographical area.

(g) ROLLOVER OF EXISTING TAX-EXEMPT OBLIGATIONS.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to the issuance of obligations to refinance for the same purpose tax-exempt indebtedness which was outstand-

ing on April 24, 1979 (or indebtedness which had previously been refinanced pursuant to this subsection), but only if—

(A) on April 24, 1979, there was an agreed on period for the maturity of the mortgages or other financing, and

(B) the new obligations have a maturity date which does not exceed by more than 2 years the agreed on period referred to in subparagraph (A).

(2) AMOUNTS FOR RESERVES, ISSUE COSTS, ETC.—An issue which otherwise meets the requirements of paragraph (1) shall not be treated as failing to meet such requirements solely because the amount of the new indebtedness exceeds the amount of the old indebtedness by such amount as is reasonably necessary to cover construction period interest, reserves, and the costs of issuing the new indebtedness.

(h) SPECIAL RULES FOR PROJECTS UNDER DEVELOPMENT.—

(1) RENTAL HOUSING.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was approved on or before such date by a governing body of a State or local government or by a State or local housing agency or similar agency, and

(B) substantial expenditures for site improvement for the project had been incurred on or before such date.

(2) RENTAL HOUSING PROJECTS APPROVED BY SECRETARY OF HUD.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221(d)(4) or section 232 of the National Housing Act on or before such date, and

12 USC 1715*l*, 1715w.

(B) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

(3) OWNER-OCCUPIED HOUSING.—The amendments made by section 1102 shall not apply to a project which was in the development stage on April 24, 1979, if on or before such date—

(A) substantial expenditures had been made for detailed plans and specifications, and

(B) either tax-exempt construction financing had been issued with respect to the project or there is written evidence that a governmental unit intended to issue tax-exempt obligations to finance the acquisition of the units by home buyers.

The amendment made by section 1103 shall not apply to construction or other initial temporary financing issued with respect to a project which meets the requirements of the preceding sentence if substantially all of the dwelling units in such project are to be owner-occupied residences.

(4) CERTAIN REDEVELOPMENT MORTGAGE BOND FINANCING PROJECTS.—Subparagraph (B) of paragraph (3) shall be treated as satisfied if, before April 25, 1979—

(A) the developer of a project acquired the land for such project,

(B) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law

authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(C) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this paragraph may not exceed $20,000,000.

(i) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the amendments made by sections 1102 and 1103, insofar as they require obligations to be in registered form, shall apply to obligations issued after December 31, 1981.

(2) BONDS UNDER TRANSITIONAL RULES.—Any obligation issued after December 31, 1981, by reason of this section shall be in registered form.

(j) ADVANCE REFUNDING.—Notwithstanding any other provision of this section—

(1) subsection (n) of section 103A of the Internal Revenue Code of 1954 (as added by section 1102) shall apply to obligations issued after the date of the enactment of this Act to refund obligations issued before, on, or after such date of enactment, and

(2) this section shall not apply to obligations issued after such date of enactment for the advance refunding of obligations issued before, on, or after such date of enactment.

(k) TRANSITIONAL RULE FOR LOW- AND MODERATE-INCOME REQUIREMENT.—In the case of obligations issued after April 24, 1979, and before January 1, 1984, the period for which the low- and moderate-income requirements of section 103(b)(4)(A) of the Internal Revenue Code of 1954 (as amended by section 1103 of this subtitle) is required to be met shall be 20 years.

(l) SUBSTITUTION OF GOVERNMENTAL INSTRUMENTALITY FOR CITY.—

(1) IN GENERAL.—If—

(A) a corporation was created on June 17, 1971, pursuant to State law to provide financing for the construction and rehabilitation of low-income housing,

(B) pursuant to a State law enacted in 1955 a city has made loans to housing developers from the proceeds of short-term bonds and notes issued by the city, and has secured 50-year mortgages from the developers, and

(C) the corporation agrees to acquire from the city certain of the loans referred to in subparagraph (B) by issuing obligations which will be secured by mortgages referred to in subparagraph (B) on 12 projects (11 of which projects are subsidized with interest-reduction subsidies under section 236 of the National Housing Act), 12 USC 1715z-1

then the amendments made by this subtitle shall not apply to obligations issued by the corporation to acquire the loans (and mortgages) referred to in subparagraph (C).

(2) DOLLAR LIMIT.—The aggregate amount of obligations to which paragraph (1) applies shall not exceed $135,000,000.

(3) TIME LIMIT.—Paragraph (1) shall not apply to any obligation issued after December 31, 1980.

(m) STATE LEGISLATION WAS PENDING ON APRIL 1, 1979, AND ENACTED ON APRIL 26, 1979, WHERE LOCALITY HAD TAKEN ACTION TO UNDERTAKE A STUDY OF LOCAL MORTGAGE MARKET.—

(1) IN GENERAL.—If—

(A) on April 1, 1979, legislation was pending in a State legislature limiting the authority of local governments within such State to issue tax-exempt obligations for owner-occupied residence under existing home rule authority, and such legislation was enacted on April 26, 1979,

(B) there is written evidence (which was in existence before April 25, 1979) that not earlier than June 1, 1978, but before April 25, 1979, the governing body of a local government in such State had taken action authorizing the undertaking of a demographic or related study of the local mortgage market, which study was intended to serve as a basis for issuance of tax exempt obligations for owner-occupied residences,

(C) on December 20, 1979, an amount was specified by or for the local government as the range of obligations which it expected to issue with respect to the area under any transitional authority provided by the Act, and

(D) a majority of the members of the governing body of the local government certify that the city or county was waiting enactment of the legislation described in subparagraph (A) prior to determining to proceed towards the issuance of tax-exempt obligations for owner-occupied residences.

then the amendments made by section 1102 shall not apply to obligations issued by such city or county.

(2) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of paragraph (1) may not exceed the maximum amount referred to in paragraph (1)(C) which was specified on December 20, 1979, by or for such local government.

(3) TIME LIMITS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1982.

(n) CERTAIN ADDITIONAL TRANSITIONAL AUTHORITY.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to issues described in the following table:

City or county	Ceiling amount	Purpose of issue
Baltimore, Maryland	$100,000,000	Financing owner-occupied residences.
Port Arthur, Texas	175,000,000	For financing on New Town In Town project.
Minneapolis, Minnesota	25,000,000	Financing owner-occupied residences.
Minneapolis-St. Paul, Minnesota.	235,000,000	Joint program for financing owner-occupied residences involving some UDAG grants and private financing.
Detroit, Michigan	50,000,000	To issue obligations maturing before 1986 for construction on the Riverfront West project.
Brevard County, Florida	150,000,000	Financing owner-occupied residences.
Chicago, Illinois	235,000,000	For financing on the Presidential Towers project.

(2) ISSUING AUTHORITY.—The authority granted by this subsection with respect to any city or county may be used only by the appropriate issuing authority for that city or county.

(3) CEILING AMOUNT.—The ceiling amount specified in paragraph (1) with respect to any item shall be the maximum aggregate amount of obligations which may be issued by the appropriate issuing authority under the authority granted by such item.

(4) PURPOSE.—The authority under any item may be used to issue obligations only for the purpose set forth in paragraph (1) for such item.

(o) SPECIAL RULE FOR LOANS TO LENDERS PROGRAM.—

(1) IN GENERAL.—In the case of any obligations issued during 1981 or 1982 pursuant to a qualified loans to lender program—

(A) the amendments made by section 1103 shall not apply,

(B) subsection (i) of section 103A of the Internal Revenue Code of 1954 (other than the last sentence of paragraph (1) of such subsection) shall not apply, and

Ante, p. 2660.

(C) the determination of whether the requirements of subsections (d), (e), (f), (h), (j)(2), and (j)(3) of such section 103A are met with respect to such issue shall be made by taking into account the loans made by the financial institutions with the funds provided by the issue (in lieu of the mortgages acquired from the financial institutions with the proceeds of the issue).

(2) QUALIFIED LOANS TO LENDER PROGRAM.—For purposes of paragraph (1), the term "qualified loans to lender program" means any program established pursuant to legislation enacted by New York State in 1970 which finances the purchase of existing mortgages from financial institutions and requires any money received by a financial institution on the purchase of a mortgage to be reinvested within 90 days in new mortgages.

Subtitle B—Cash Management

SEC. 1111. ESTIMATED INCOME TAX PAYMENTS BY CORPORATIONS.

(a) GENERAL RULE.—Section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

26 USC 6655.

"(h) LARGE CORPORATIONS REQUIRED TO PAY AT LEAST 60 PERCENT OF CURRENT YEAR TAX.—

"(1) IN GENERAL.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) LARGE CORPORATION.—For purposes of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) RULES FOR APPLYING PARAGRAPH (2).—

"(A) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) MEMBERS OF CONTROLLED GROUPS.—For purposes of applying paragraph (2) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (2) shall be divided among such members under rules similar to the rules of section 1561."

26 USC 6655. (b) TECHNICAL AMENDMENT.—Subsection (e) of section 6655 of such Code is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

26 USC 6655 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Foreign Investment in Real Property Tax Act of 1980.

Subtitle C—Taxation of Foreign Investment in United States Real Property

26 USC 1 note. SEC. 1121. SHORT TITLE.

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980".

SEC. 1122. TAX ON DISPOSITION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.

(a) IN GENERAL.—Subpart C of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

26 USC 897. "SEC. 897. DISPOSITION OF INVESTMENT IN UNITED STATES REAL PROPERTY.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a United States real property interest shall be taken into account—

"(A) in the case of a nonresident alien individual, under 26 USC 871. section 871(B)(1), or

"(B) in the case of a foreign corporation, under section 26 USC 882. 882(a)(1),

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business.

"(2) 20-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien 26 USC 55. individual, the amount determined under section 55(a)(1)(A) for the taxable year shall not be less than 20 percent of whichever of the following is the least:

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(1)) for the taxable year,

"(ii) the individual's net United States real property gain for the taxable year, or

"(iii) $60,000.

"(B) NET UNITED STATES REAL PROPERTY GAIN.—For purposes of subparagraph (A), the term 'net United States real property gain' means the excess of—

"(i) the aggregate of the gains for the taxable year from dispositions of United States real property interests, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such interests.

"(b) LIMITATION ON LOSSES OF INDIVIDUALS.—In the case of an individual, a loss shall be taken into account under subsection (a) only to the extent such loss would be taken into account under section 165(c) (determined without regard to subsection (a) of this section). 26 USC 165.

"(c) UNITED STATES REAL PROPERTY INTEREST.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any domestic corporation unless the taxpayer establishes (at such time and in such manner as the Secretary by regulations prescribes) that such corporation was at no time a United States real property holding corporation during the shorter of—

"(I) the period after June 18, 1980, during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the disposition of such interest.

"(B) EXCLUSION FOR INTEREST IN CERTAIN CORPORATIONS.—The term 'United States real property interest' does not include any interest in a corporation if—

"(i) as of the date of the disposition of such interest, such corporation did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such corporation at any time during the shorter of the periods described in subparagraph (A)(ii)—

"(I) were disposed of in transactions in which the full amount of the gain (if any) was recognized, or

"(II) ceased to be United States real property interests by reason of the application of this subparagraph to 1 or more other corporations.

"(2) UNITED STATES REAL PROPERTY HOLDING CORPORATION.—The term 'United States real property holding corporation' means any corporation if—

"(A) the fair market value of its United States real property interests equals or exceeds 50 percent of

"(B) the fair market value of—

"(i) its United States real property interests,

"(ii) its interests in real property located outside the United States, plus

"(iii) any other of its assets which are used or held for use in a trade or business.

"(3) EXCEPTION FOR STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKETS.—If any class of stock of a corporation is regularly traded on an established securities market, stock of

such class shall be treated as a United States real property interest only in the case of a person who, at some time during the shorter of the periods described in paragraph (1)(A)(ii), held more than 5 percent of such class of stock.

"(4) INTERESTS HELD BY FOREIGN CORPORATIONS AND BY PARTNERSHIPS, TRUSTS, AND ESTATES.—For purposes of determining whether any corporation is a United States real property holding corporation—

"(A) FOREIGN CORPORATIONS.—Paragraph (1)(A)(ii) shall be applied by substituting 'any corporation (whether foreign or domestic)' for 'any domestic corporation'.

"(B) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(5) TREATMENT OF CONTROLLING INTERESTS.—

"(A) IN GENERAL.—Under regulations, for purposes of determining whether any corporation is a United States real property holding corporation, if any corporation (hereinafter in this paragraph referred to as the 'first corporation') holds a controlling interest in a second corporation—

"(i) the stock which the first corporation holds in the second corporation shall not be taken into account,

"(ii) the first corporation shall be treated as holding a portion of each asset of the second corporation equal to the percentage of the fair market value of the stock of the second corporation represented by the stock held by the first corporation, and

"(iii) any asset treated as held by the first corporation by reason of clause (ii) which is used or held for use by the second corporation in a trade or business shall be treated as so used or held by the first corporation.

Any asset treated as held by the first corporation by reason of the preceding sentence shall be so treated for purposes of applying the preceding sentence successively to corporations which are above the first corporation in a chain of corporations.

"(B) CONTROLLING INTEREST.—For purposes of subparagraph (A), the term 'controlling interest' means 50 percent or more of the fair market value of all classes of stock of a corporation.

"(6) OTHER SPECIAL RULES.—

"(A) INTEREST IN REAL PROPERTY.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL PROPERTY.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(C) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of determining under paragraph (3) whether any person holds more than 5 percent of any class of stock and of determining under paragraph (5) whether a person holds a controlling interest in any corporation, section 318(a) shall apply (except

that paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent'). 26 USC 318.

"(d) TREATMENT OF DISTRIBUTIONS, ETC., BY FOREIGN CORPORATIONS.—

"(1) DISTRIBUTIONS.—

"(A) IN GENERAL.—Except to the extent otherwise provided in regulations, notwithstanding any other provision of this chapter, gain shall be recognized by a foreign corporation on the distribution (including a distribution in liquidation or redemption) of a United States real property interest in an amount equal to the excess of the fair market value of such interest (as of the time of the distribution) over its adjusted basis.

"(B) EXCEPTION WHERE THERE IS A CARRYOVER BASIS.—Subparagraph (A) shall not apply if the basis of the distributed property in the hands of the distributee is the same as the adjusted basis of such property before the distribution increased by the amount of any gain recognized by the distributing corporation.

"(2) SECTION 337 NOT TO APPLY.—Section 337 shall not apply to any sale or exchange of a United States real property interest by a foreign corporation. 26 USC 337.

"(e) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(1) IN GENERAL.—Except to the extent otherwise provided in subsection (d) and paragraph (2) of this subsection, any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of an exchange of a United States real property interest for an interest the sale of which would be subject to taxation under this chapter.

"(2) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(A) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(B) the extent to which—

"(i) transfers of property in reorganization, and

"(ii) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(3) NONRECOGNITION PROVISION DEFINED.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(f) DISTRIBUTIONS BY DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDERS.—If a domestic corporation distributes a Unted States real property interest to a nonresident alien individual or a foreign corporation in a distribution to which section 301 applies, notwithstanding any other provision of this chapter, the basis of such United States real property interest in the hands of such nonresident alien individual or foreign corporation shall not exceed— 26 USC 301.

"(1) the adjusted basis of such property before the distribution, increased by

"(2) the sum of—

"(A) any gain recognized by the distributing corporation on the distribution, and

"(B) any tax paid under this chapter by the distributee on such distribution.

"(g) SPECIAL RULE FOR SALES OF INTEREST IN PARTNERSHIPS, TRUSTS, AND ESTATES.—Under regulations prescribed by the Secretary, the

amount of any money, and the fair market value of any property, received by a nonresident alien individual or foreign corporation in exchange for all or part of its interest in a partnership, trust, or estate shall, to the extent attributable to United States real property interests, be considered as an amount received from the sale or exchange in the United States of such property.

"(h) SPECIAL RULES FOR REITS.—For purposes of this section—

"(1) LOOK-THROUGH OF DISTRIBUTIONS.—Any distribution by a REIT to a nonresident alien individual or a foreign corporation shall, to the extent attributable to gain from sales or exchanges by the REIT of United States real property interests, be treated as gain recognized by such nonresident alien individual or foreign corporation from the sale or exchange of a United States real property interest.

"(2) SALE OF STOCK IN DOMESTICALLY-CONTROLLED REIT NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically-controlled REIT.

"United States real property interests.'

"(3) DISTRIBUTIONS BY DOMESTICALLY-CONTROLLED REITS.—In the case of a domestically-controlled REIT, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

"(4) DEFINITIONS.—

"(A) REIT.—The term 'REIT' means a real estate investment trust.

"(B) DOMESTICALLY-CONTROLLED REIT.—The term 'domestically-controlled REIT' means a REIT in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.

"(C) FOREIGN OWNERSHIP PERCENTAGE.—The term 'foreign ownership percentage' means that percentage of the stock of the REIT which was held (directly or indirectly) by foreign persons at the time during the testing period during which the direct and indirect ownership of stock by foreign persons was greatest.

"(D) TESTING PERIOD.—The term 'testing period' means whichever of the following periods is the shortest:

"(i) the period beginning on June 19, 1980, and ending on the date of the disposition or of the distribution, as the case may be,

"(ii) the 5-year period ending on the date of the disposition or of the distribution, as the case may be, or

"(iii) the period during which the REIT was in existence.

"(i) ELECTION BY FOREIGN CORPORATION TO BE TREATED AS DOMESTIC CORPORATION.—

"(1) IN GENERAL.—If—

"(A) a foreign corporation has a permanent establishment in the United States, and

"(B) under any treaty, such permanent establishment may not be treated less favorably than domestic corporations carrying on the same activities,

then such foreign corporation may make an election to be treated as a domestic corporation for purposes of this section and section 6039C.

Post, p. 2687.

"(2) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1), once made, may be revoked only with the consent of the Secretary.

"(3) MAKING OF ELECTION.—An election under paragraph (1) may be made only subject to such conditions as may be prescribed by the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"SEC. 897. Disposition of investment in United States real property."

(c) CROSS REFERENCES.— 26 USC 871.

(1) Subsection (g) of section 871 of such Code (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897."

(2) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph: 26 USC 882.

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897."

SEC. 1123. REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new section:

"SEC. 6039C. RETURNS WITH RESPECT TO UNITED STATES REAL PROPERTY INTERESTS. 26 USC 6039C.

"(a) RETURN OF CERTAIN DOMESTIC CORPORATIONS HAVING FOREIGN SHAREHOLDERS.—

"(1) GENERAL RULE.—

"(A) RETURN REQUIREMENT.—If this subsection applies to a domestic corporation for the calendar year, such corporation shall make a return for the calendar year setting forth—

"(i) the name and address (if known by the corporation) of each person who was a shareholder at any time during the calendar year and who is known by the corporation to be a foreign person,

"(ii) such information with respect to transfers of stock in such corporation to or from foreign persons during the calendar year as the Secretary may by regulations prescribe, and

"(iii) such other information as the Secretary may by regulations prescribe.

"(B) CORPORATIONS TO WHICH SUBSECTION APPLIES.—This subsection applies to any domestic corporation for the calendar year if—

"(i) at any time during the calendar year 1 or more of the shareholders of such corporation is a foreign person, and

"(ii) at any time during the calendar year or during any of the 4 immediately preceding calendar years, such corporation was a United States real property holding corporation (as defined in section 897(c)(2)).

"(2) SUBSECTION DOES NOT APPLY TO PUBLICLY TRADED CORPORATIONS.—This subsection shall not apply to a corporation the stock of which is regularly traded on an established securities market at all times during the calendar year.

"STOCK HELD BY NOMINEES.—If—

"(A) a nominee holds stock in a domestic corporation for a foreign person, and

"(B) such foreign person does not furnish the information required to be furnished pursuant to paragraph (1)(A) with respect to such stock,

the nominee shall file a return under this subsection with respect to such stock.

"(b) RETURN OF CERTAIN PERSONS HOLDING UNITED STATES REAL PROPERTY INTERESTS.—

"(1) RETURN REQUIREMENT.—If any entity to which this subsection applies has at any time during the calendar year a substantial investor in United States real property, such entity shall make a return for the calendar year setting forth—

"(A) the name and address of each such substantial investor,

"(B) such information with respect to the assets of the entity during the calendar year as the Secretary may by regulations prescribe, and

"(C) such other information as the Secretary may by regulations prescribe.

"(2) EXCEPTION WHERE SECURITY FURNISHED.—This subsection shall not apply to any entity for the calendar year if such entity furnishes to the Secretary such security as the Secretary determines to be necessary to ensure that any tax imposed by chapter 1 with respect to United States real property interests held by such entity will be paid.

"(3) STATEMENTS TO BE FURNISHED TO SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—Every entity making a return under paragraph (1) shall furnish to each substantial investor in United States real property a statement showing—

"(A) the name and address of the entity making such return,

"(B) such substantial investor's pro rata share of the United States real property interests held by such entity, and

"(C) such other information as the Secretary shall by regulations prescribe.

"(4) DEFINITIONS.—For purpose of this subsection—

"(A) ENTITIES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any foreign corporation and to any partnership, trust, or estate (whether foreign or domestic).

"(B) SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—

"(i) IN GENERAL.—The term 'substantial investor in United States real property' means any foreign person who at any time during the calendar year held an interest in the entity but only if the fair market value of such person's pro rata share of the United States real property interests held by such entity exceeded $50,000.

"(ii) SPECIAL RULE FOR CORPORATIONS.—In the case of any foreign corporation, clause (i) shall be applied by substituting 'person (whether foreign or domestic)' for 'foreign person'.

"(C) INDIRECT HOLDINGS.—The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property.

"(c) RETURN OF CERTAIN FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.—

"(1) RETURN REQUIREMENT.—If this subsection applies to any foreign person for the calendar year, such person shall make a return for the calendar year setting forth—

"(A) the name and address of such person,

"(B) a description of all United States real property interests held by such person at any time during the calendar year, and

"(C) such other information as the Secretary may by regulations prescribe.

"(2) PERSONS TO WHOM THIS SUBSECTION APPLIES.—This subsection applies to any foreign person for the calendar year if—

"(A) such person did not engage in a trade or business in the United States at any time during the calendar year,

"(B) the fair market value of the United States real property interests held by such person at any time during such year equals or exceeds $50,000, and

"(C) such person is not required to file a return under subsection (b) of such year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—The term 'United States real property interest' has the meaning given to such term by section 897(c). *Ante*, p. 2682.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person."

"(e) SPECIAL RULES.—

"(1) ATTRIBUTION OF OWNERSHIP.—For purposes of subsections (b)(4) and (c)(2)(B)—

"(A) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(B) INTERESTS HELD BY FAMILY MEMBERS.—United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

"(2) RETURNS, ETC.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe."

(b) PENALTY FOR FAILURE TO FILE RETURN, ETC.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 6652.

"(g) RETURNS, ETC., REQUIRED UNDER SECTION 6039C.— *Ante*, p. 2687.

"(1) IN GENERAL.—In the case of each failure—

"(A) to make a return required by section 6039C which contains the information required by such section, or

"(B) to furnish a statement required by section 6039C(b)(3), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount

determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return or furnish such statement.

"(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be $25 for each day during which such failure continues.

"(3) LIMITATIONS.—

"(A) FOR FAILURE TO MEET REQUIREMENTS OF SUBSECTION (A) OR (B) OF SECTION 6039C.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of subsection (a) or (b) of section 6039C for any calendar year shall not exceed $25,000 with respect to each such subsection.

Ante, p. 2687.

"(B) FOR FAILURE TO MEET REQUIREMENTS OF SECTION 6039C(C).—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of subsection (c) of section 6039C for any calendar year shall not exceed the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year. For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 of such Code is amended by inserting after the item relating to section 6039B the following new item:

"Sec. 6039C. Returns with respect to United States real property interests."

SEC. 1124. SOURCES WITHIN UNITED STATES.

26 USC 861.

Paragraph (5) of subsection (a) of section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended to read as follows:

"(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTEREST.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c))."

Ante, p. 2682.

SEC. 1125. EFFECTIVE DATE.

26 USC 897 note.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to dispositions after June 18, 1980.

(b) REPORTING.—The amendments made by section 1123 shall apply to 1980 and subsequent calendar years. In applying such amendments to 1980, such calendar year shall be treated as beginning on June 19, 1980, and ending on December 31, 1980.

(c) SPECIAL RULE FOR TREATIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), after December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring, by reason of any treaty obligation of the United States, an exemption from (or reduction of) any tax imposed by section 871 or 882 of such Code on a gain described in section 897 of such Code.

26 USC 894, 7852.

26 USC 871, 882.

Ante, p. 2682.

(2) SPECIAL RULE FOR TREATIES RENEGOTIATED BEFORE 1985.—If—

(A) any treaty (hereinafter in this paragraph referrred to as the "old treaty") is renegotiated to resolve conflicts between such treaty and the provisions of section 897 of the Internal Revenue Code of 1954, and

Ante, p. 2682.

(B) the new treaty is signed before January 1, 1985, then paragraph (1) shall be applied with respect to obligations under the old treaty by substituting for "December 31, 1984" the date (not later than 2 years after the new treaty was signed) specified in the new treaty (or accompanying exchange of notes).

(d) ADJUSTMENT IN BASIS FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—

(1) IN GENERAL.—In the case of any disposition after December 31, 1979, of a United States real property interest (as defined in section 897(c) of the Internal Revenue Code of 1954) to a related person (within the meaning of section 453(f)(1) of such Code), the basis of the interest in the hands of the person acquiring it shall be reduced by the amount of any nontaxed gain.

26 USC 453.

(2) NONTAXED GAIN.—For purposes of paragraph (1), the term "nontaxed gain" means any gain which is not subject to tax under section 871(b)(1) or 882(a)(1) of such Code—

26 USC 871, 882.

(A) because the disposition occurred before June 19, 1980, or

(B) because of any treaty obligation of the United States.

Subtitle D—Credit Against Crude Oil Windfall Profit Tax for Royalty Owners

SEC. 1131. CREDIT AGAINST CRUDE OIL WINDFALL PROFIT TAX FOR ROYALTY OWNERS.

(a) CREDIT AGAINST WINDFALL PROFIT TAX FOR ROYALTY OWNERS.—

(1) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. CREDIT AND REFUND OF CHAPTER 45 TAXES PAID BY ROYALTY OWNERS.

26 USC 6429.

"(a) TREATMENT AS OVERPAYMENT.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production shall be treated as an overpayment of the tax imposed by section 4986.

26 USC 4986.

"(b) CREDITS AND REFUNDS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax under subsection (a) shall be credited against the tax imposed by section 4986 or refunded to the qualified royalty owner.

"(2) CLAIM FOR CREDIT OR REFUND.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.

"(c) $1,000 LIMITATION ON CREDIT OR REFUND.—

"(1) IN GENERAL.—The aggregate amount which may be treated as an overpayment under subsection (a) with respect to any qualified royalty owner shall not exceed $1,000.

"(2) ALLOCATION WITHIN A FAMILY.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period, the $1,000 amount in paragraph (1) shall be reduced for each such

26 USC 4992.

individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(3) ALLOCATION BETWEEN CORPORATIONS AND INDIVIDUALS.—

"(A) IN GENERAL.—In the case of an individual who owns at any time during the qualified period stock in a qualified family farm corporation, the $1,000 amount in paragraph (1) applicable to such individual shall be reduced by the amount which bears the same ratio to the credit or refund allowable to the corporation under this section (determined after the application of paragraph (4)) as the fair market value of the shares owned by such individual during such period bears to the fair market value of all shares of the corporation.

"(B) SPECIAL RULE FOR FAMILY MEMBERS.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period— 26 USC 4992.

"(i) for purposes of subparagraph (A), all such individuals shall be treated as 1 individual, and

"(ii) the amount allocated among such individuals under paragraph (2) shall be $1,000, reduced by the amount determined under subparagraph (A).

"(4) ALLOCATION BETWEEN CORPORATIONS.—If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, the $1,000 amount in paragraph (1) shall be reduced for each such corporation by allocating such amount among all such corporations in proportion to their respective qualified royalty production.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED ROYALTY OWNER.—The term 'qualified royalty owner' means a producer (within the meaning of section 4996(a)(1)), but only if such producer is an individual, an estate, or a qualified family farm corporation. 26 USC 4996.

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which—

"(A) is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)), and 26 USC 614.

"(B) is removed from the premises during the qualified period.

"(3) QUALIFIED PERIOD.—The term 'qualified period' means the period beginning March 1, 1980, and ending December 31, 1980.

"(4) QUALIFIED FAMILY FARM CORPORATION.—The term 'qualified family farm corporation' means a corporation—

"(A) which was in existence on June 25, 1980,

"(B) all of the outstanding shares of stock of which at all times after June 24, 1980, and before January 1, 1981, were held by members of the same family (within the meaning of section 2032A(e)(2)), and 26 USC 2032A.

"(C) 80 percent in value of the assets of which (other than royalty interests described in paragraph (2)(A)) were held by the corporation on such date for use for farming purposes (within the meaning of section 2032A(e)(5)).

"(e) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for subpart B of chapter 65 of such code is amended by adding at the end thereof the following new item:

"Sec. 6429. Credit and refund of chapter 45 taxes paid by royalty owners."

(d) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 of such Code (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280D. PORTION OF CHAPTER 45 TAXES FOR WHICH CREDIT OR REFUND IS ALLOWABLE UNDER SECTION 6429. 26 USC 280D.

"No deduction shall be allowed for that portion of the tax imposed by section 4986 for which a credit or refund is allowable under section 6429." 26 USC 4986. 26 USC 6429.

(2) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280D. Portion of chapter 45 taxes for which credit or refund is allowable under section 6429."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after February 29, 1980. 26 USC 280D.

Subtitle E—Inclusion in Wages for Purposes of Social Security and Unemployment Taxes of Employer

SEC. 1141. INCLUSION IN WAGES OF EMPLOYEE TAXES PAID BY EMPLOYER.

(a) SOCIAL SECURITY TAX.—

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 3121(a) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows: 26 USC 3121.

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or 26 USC 3101.

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subsection (f) of section 209 of the Social Security Act is amended to read as follows: 42 USC 409.

"(f) The payment by an employer (without deduction from the remuneration of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, or 26 USC 3101.

"(2) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

26 USC 3306.

(b) FEDERAL UNEMPLOYMENT TAX.—Paragraph (6) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

26 USC 3101.

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

26 USC 3121 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to remuneration paid after December 31, 1980.

(2) EXCEPTION FOR STATE AND LOCAL GOVERNMENTS.—

(A) The amendments made by this section (insofar as they affect the application of section 218 of the Social Security Act) shall not apply to any payment made before January 1, 1984, by any governmental unit for positions of a kind for which all or a substantial portion of the social security employee taxes were paid by such governmental unit (without deduction from the remuneration of the employee) under the practices of such governmental unit in effect on October 1, 1980.

42 USC 418.

"Social security employee taxes."

(B) For purposes of subparagraph (A), the term "social security employee taxes" means the amount required to be paid under section 218 of the Social Security Act as the equivalent of the taxes imposed by section 3101 of the Internal Revenue Code of 1954.

42 USC 418.

26 USC 3101.

"Governmental unit."

(C) For purposes of subparagraph (A), the term "Governmental unit" means a State or political subdivision thereof within the meaning of section 218 of the Social Security Act.

26 USC 418.

Subtitle F—Telephone Tax

SEC. 1151. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981.

26 USC 4251.

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981	2
During 1982	1".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 of such Code is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle G—Increase Until 1993 in the Duties on Certain Imports of Ethyl Alcohol

SEC. 1161. INCREASE UNTIL 1993 IN THE DUTIES ON ETHYL ALCOHOL IMPORTED FOR FUEL USE.

(a) AMENDMENTS TO APPENDIX TO TSUS.—

(1) FOR 1981.—Effective with respect to articles entered on or after January 1, 1981, subpart A of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	901.50	Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel	10¢ per gal.	10¢ per gal.	On or before 12/31/81	".

(2) FOR 1982.—Effective with respect to articles entered on or after January 1, 1982, item 901.50 of the Tariff Schedules of the United States (as added by paragraph (1)) is amended by striking out "10" in columns numbered 1 and 2 and inserting in lieu thereof "20"; and by striking out "12/31/81" and inserting in lieu thereof "12/31/82".

(3) AFTER 1982 AND UNTIL 1993.—Effective with respect to articles entered on or after January 1, 1983, such item 901.50 is amended by striking out "20" in columns numbered 1 and 2 and inserting in lieu thereof "40", and by striking out "12/31/82" and inserting in lieu thereof "12/31/92".

(b) DEFINITION.—For purposes of subsection (a), the term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1167 (Comm. on the Budget) and No. 96-1479 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 30, S. 2885 considered and passed Senate.

July 25, S. 2939 considered and passed Senate.

Sept. 4, H.R. 7765 considered and passed House.

Sept. 17, passages of S. 2885 and S. 2939 vacated in Senate; H.R. 7765, amended, passed in lieu.

Sept. 18, House disagreed to Senate amendment and agreed to a conference.

Dec. 3, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 49:

Dec. 5, Presidential remarks.

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